



# North Dakota Legislative Council

Prepared for Representative Becker  
 LC # 21.9610.01000  
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## SUMMARY OF EXECUTIVE ORDERS ISSUED IN RESPONSE TO CORONAVIRUS (COVID-19) PANDEMIC AND THE EFFECT IF THE DECLARED STATE OF EMERGENCY WERE TERMINATED

Executive Order Number	Date Issued	Summary of Executive Order	Effect if Declared State of Emergency was Terminated
<u>No. 2020-03</u>	March 13, 2020	<ul style="list-style-type: none"> <li>• Declared state of emergency</li> <li>• Activated ND State Emergency Operations Plan</li> <li>• Authorized Adjutant General to activate and make available ND National Guard resources.</li> </ul>	<ul style="list-style-type: none"> <li>• ND State Emergency Operations Plan would deactivate.</li> <li>• Adjutant General would not be authorized to activate and make available ND National Guard resources.</li> <li>• All executive orders issued in response to the COVID-19 pandemic would cease to be in effect.</li> </ul>
<u>No. 2020-05</u>	March 19, 2020	<ul style="list-style-type: none"> <li>• Suspended licensing requirements for hospitals and other health care facilities.</li> <li>• Suspended licensure requirements for certain professionals licensed in other states to provide health care and behavioral health services for citizens impacted by COVID-19.</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Hospitals and health care facilities would need to adhere to state's licensing requirements.</u></li> <li>• Certain professionals licensed in other states who provide health care and behavioral health services, including telehealth care, to citizens impacted by COVID-19 would need to adhere to state's licensing requirements.</li> </ul>
<u>No. 2020-05.1</u>	March 20, 2020	<ul style="list-style-type: none"> <li>• Suspended licensure requirements for certain professionals licensed in other states to provide health care and behavioral health care for citizens impacted by COVID-19. The list of covered professionals included those in <u>Executive Order 2020-05</u> and those licensed under North Dakota Century Code (NDCC) Chapter 43-62 (Medical Imaging and Radiation Therapy).</li> <li>• Suspended certain statutory and regulatory requirements regarding telehealth services.</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Hospitals and health care facilities would need to adhere to state's licensing requirements.</u></li> <li>• Certain professionals licensed in other states who provide health care and behavioral health services, including telehealth care, to citizens impacted by COVID-19 would need to adhere to state's licensing requirements.</li> <li>• Certain statutory and regulatory provisions regarding telehealth services would go back into effect, including:             <ul style="list-style-type: none"> <li>• Telehealth services would include audio-only telehealth services;</li> <li>• Insurance carriers would be able to subject telehealth coverage, including virtual check-ins and e-visits for established patients, to deductible, coinsurance, copayment, or other cost sharing provisions; and</li> <li>• Insurance carriers could impose specific requirements on the technologies used to deliver telehealth, virtual check-in, and e-visit services.</li> </ul> </li> </ul>
<u>No. 2020-09</u>	March 21, 2020	<ul style="list-style-type: none"> <li>• Allowed pharmacists to administer COVID-19 tests and provide emergency refills for maintenance medications for up to a 30-day supply.</li> <li>• Required health care payers, including pharmacy benefits managers, to eliminate</li> </ul>	<ul style="list-style-type: none"> <li>• Pharmacists would not be able to administer COVID-19 tests or provide emergency refills, for up to a 30-day supply, for maintenance medications.</li> <li>• Health care payers could require proof of delivery for deliveries directly to homes and by mail.</li> </ul>

<p><u>No. 2020-12</u></p>	<p>March 25, 2020</p>	<p>proof of delivery requirements for deliveries directly to homes and by mail.</p> <ul style="list-style-type: none"> <li>• Suspended certain requirements for workers' compensation to allow first responders, health care workers, and occupations under NDCC Section 65-01-02(11)(b)(1) exposed to COVID-19 in the course of employment to file a claim for workers' compensation coverage.</li> <li>• Suspended certain requirements for workers' compensation to allow first responders, frontline health care workers, and occupations identified under NDCC Section 65-01-02(11)(b)(1) who test positive for COVID-19 and can demonstrate the infection resulted from work-related exposure to be eligible for wage replacement and medical benefits as provided under Title 65 for compensable injuries.</li> </ul>	<p>First responders, frontline health care workers, and occupations under NDCC Section 65-01-02(11)(b)(1) would not be eligible for workers' compensation coverage or benefits related to COVID-19 exposure or infection.</p>
<p><u>No. 2020-16</u></p>	<p>March 30, 2020</p>	<ul style="list-style-type: none"> <li>• Suspended requirements that a meeting room be available to the public and a speakerphone or monitor be provided at a physical location under NDCC Section 44-04-19 when members of a governing body are attending a meeting via remote means.</li> <li>• Ordered notices and agendas of meetings subject to open meeting laws in which members of the governing body are appearing via remote means provide a conference call number or an electronic link that provides real-time or live streaming public access.</li> </ul>	<p>Requirements under NDCC Section 44-04-19 that a meeting room be available to the public and a speakerphone or monitor be provided at a physical location would go back into effect, and all-virtual public meetings could not be held.</p>
<p><u>No. 2020-18</u></p>	<p>April 1, 2020</p>	<p>Suspended the one-week waiting period under NDCC Section 52-06-01(4) for any individual whose unemployment occurred during the COVID-19 emergency declaration, who filed a claim during or after the week ending March 14, 2020.</p>	<p>The one-week waiting period under NDCC Section 52-06-01(4) for an individual whose unemployment occurred during the COVID-19 emergency declaration would go back into effect.</p>
<p><u>No. 2020-20</u></p>	<p>April 3, 2020</p>	<ul style="list-style-type: none"> <li>• Suspended certain requirements under health care and behavioral health licensing statutes to allow certain professionals with inactive or lapsed licenses to return to the workforce to provide resources to the COVID-19 pandemic.</li> <li>• Authorized State Board of Respiratory Care to grant temporary provisional licenses to certain respiratory care therapists or respiratory care practitioners with inactive or lapsed licenses.</li> </ul>	<ul style="list-style-type: none"> <li>• Certain licensure requirements for health care and behavioral health care professionals would go back into effect.</li> <li>• State Board of Respiratory Care would not be able to grant temporary provisional licenses to certain respiratory care therapists or respiratory care practitioners with inactive or lapsed licenses.</li> </ul>
<p><u>No. 2020-17.1</u></p>	<p>April 7, 2020</p>	<ul style="list-style-type: none"> <li>• Suspended April 1, 2020, expiration of commercial, public, and private pesticide applicator certifications under NDCC Chapter 4.1-33 during pendency of declared state of emergency.</li> <li>• Suspended pesticide applicator certification requirements under NDCC Chapter 4.1-33 and North Dakota Administrative Code (NDAC) Chapter 60-03-01-05.2 for the use of nonrestricted disinfectants during pendency of declared state of emergency.</li> </ul>	<ul style="list-style-type: none"> <li>• Commercial, public, and private pesticide applicator certifications may expire.</li> <li>• Pesticide applicator certification requirements under NDCC Chapter 4.1-33 and NDAC Chapter 60-03-01-05.2 for the use of nonrestricted disinfectants would go back into effect.</li> </ul>
<p><u>No. 2020-25</u></p>	<p>April 8, 2020</p>	<ul style="list-style-type: none"> <li>• Suspended operation of NDCC Sections 49-22-13 and 49-22.1-10 requiring Public Service Commission to hold public hearings on permit applications in specific locations.</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Public Service Commission would be required to hold public hearings</u> on permit applications in specific locations under NDCC Sections 49-22-13 and 49-22.1-10.</li> </ul>

<u>No. 2020-26</u>	April 8, 2020	<ul style="list-style-type: none"> <li>Suspended operation of NDCC Section 15-04-10 requiring Commissioner of University and School Lands to hold public auctions for public land leasing in the county seat.</li> </ul>	<ul style="list-style-type: none"> <li><u>Commissioner of University and Schools Lands would be required to hold public auctions for public land leasing in the county seat under NDCC Section 15-04-10.</u></li> </ul>
<u>No. 2020-21.1</u>	April 10, 2020	<p>Suspended NDCC Section 54-44-04.6(3) as it pertains to the donation or transfer of surplus property that is directly related to the COVID-19 response, limited to medical supplies or personal protective equipment being transferred to State Department of Health or other state agency, political subdivision, or eligible charitable organization.</p> <ul style="list-style-type: none"> <li>Ordered individuals who test positive for COVID-19 and all household members residing with the infected individual to self-isolate as directed by order of the State Health Officer.</li> <li>Ordered only family and household members, health care workers, and others performing services in support of elderly, disabled, and vulnerable populations to be permitted in the place of residence during the self-quarantine period.</li> <li>Ordered individuals under a self-isolation or self-quarantine order to leave their place of residence only with prior approval or at the direction of the State Department of Health.</li> </ul>	<p>Surplus property, including medical supplies or personal protective equipment being transferred to State Department of Health or another state agency, political subdivision, or eligible charitable organization, would be required to be transferred at fair market value under NDCC Section 54-44-04.6(3).</p> <p>Individuals who test positive for COVID-19 and all household members residing with the infected individual would not need to self-isolate, and any individual would be permitted in the place of residence during the self-quarantine period.<sup>1</sup></p>
<u>No. 2020-12.1</u>	April 16, 2020	<p>Ordered eligibility for workers' compensation benefits provided in <u>Executive Order 2020-12</u> be extended to funeral directors and other individuals employed in funeral homes, provided that any funeral director or employee who tests positive for COVID-19 demonstrate the virus resulted from exposure to a deceased individual who tested positive for COVID-19.</p>	<p>Workers' compensation benefits related to COVID-19 exposure and infection would not be extended to funeral directors and other individuals employed in funeral homes.</p>
<u>No. 2020-29</u>	April 17, 2020	<ul style="list-style-type: none"> <li>Suspended NDCC Chapters 50-06.2, 50-11, 50-24.1, 50-24.4, 50-24.5, and 50-29 and related sections of the NDAC, necessary for the operation of the Medicaid state plan disaster amendments, Appendix K, and the provisions of the 1135 Waiver issued by the Centers for Medicare and Medicaid Services (CMS).</li> <li>Stated the executive director of the Department of Human Services will establish specific requirements, limitations, or parameters and file state plan amendments, Appendix K, and an 1135 Waiver with CMS to carry out the executive order.</li> </ul>	<p>NDCC Chapters 50-06.2, 50-11, 50-24.1, 50-24.4, 50-24.5, and 50-29 and related sections of the NDAC would go back into effect.</p>
<u>No. 2020-14.1</u>	April 21, 2020	<ul style="list-style-type: none"> <li>Suspended operation of NDCC Chapter 23-07.6, subject to certain exceptions.</li> <li>Authorized State Health Officer to issue orders relating to disease control measures deemed necessary to prevent the spread of COVID-19 pursuant to NDCC Section 23-01-05(12) and consistent with due process.</li> </ul>	<p><u>All provisions of NDCC Chapter 23-07.6 would go back into effect. Chapter 23-07.6 authorizes the state health officer and local health officers to issue confinement orders for individuals who pose a substantial threat to the public health and provides a hearing process for individuals who are confined.</u></p>
<u>No. 2020-31</u>	May 8, 2020	<ul style="list-style-type: none"> <li>Suspended operation of Department of Environmental Quality's rules in NDAC Title 33.1 requiring department to hold public</li> </ul>	<p>Department of Environmental Quality would be required to hold public hearing on proposed permits in specific locations</p>

<sup>1</sup> State Health Officer Orders pertaining to isolation and quarantine may still apply.

		<p>hearings on proposed permits in specific locations.</p> <ul style="list-style-type: none"> <li>• Permitted department to conduct a public hearing by remote means if certain requirements met.</li> </ul>	
<p><u>No. 2020-06.7</u></p>	<p>May 22, 2020</p>	<ul style="list-style-type: none"> <li>• Permitted state employees who have been teleworking since March 20, 2020, to continue teleworking or return to work at state facilities beginning June 1, 2020, subject to ND Smart Restart state facility protocols.</li> <li>• Permitted Capitol and other state facilities to be accessible to the public effective June 1, 2020, subject to ND Smart Restart state facility protocols. Any individual entering the Capitol or other state facility will be subject to a wellness screening.</li> </ul>	<ul style="list-style-type: none"> <li>• ND Smart Restart state facility protocols would no longer be in place.</li> <li>• <u>Individuals entering the Capitol or other state facility would no longer be subject to a wellness screening.</u></li> </ul>
<p><u>No. 2020-22.1</u></p>	<p>June 5, 2020</p>	<ul style="list-style-type: none"> <li>• Authorized visitation in skilled nursing and basic care facilities to resume under a phased approach, based on ND Smart Restart: Vulnerable Population Protection Plan (ND Smart Restart: VP3). The phased approach in the ND Smart Restart: VP3 applies to all long-term care facilities in North Dakota, including assisted living facilities.</li> <li>• Removed restrictions on nonessential personnel and volunteer staff serving long-term care facilities based on phased approach outlined in ND Smart Restart: VP3.</li> </ul>	<p>Visitation in North Dakota long-term care facilities would resume with no restrictions in place.</p> <p>However, LTC facilities may continue to place restrictions as they see fit.</p>
<p><u>No. 2020-37</u></p>	<p>July 1, 2020</p>	<p>Suspended operation of NDCC Section 10-15-17(2) requiring cooperatives to hold an annual meeting within 6 months after the close of the fiscal year.</p>	<p>Cooperatives would be required to hold annual meeting within 6 months after the close of the fiscal year.</p>
<p><u>No. 2020-38</u></p>	<p>July 15, 2020</p>	<ul style="list-style-type: none"> <li>• Permitted Superintendent of Public Instruction to allow school districts to offer distance learning during 2020-2021 school year, based on a distance learning plan consistent with ND K-12 Smart Restart Plan.</li> <li>• Permitted school districts that meet requirements for distance learning plans to consider distance learning students as enrolled to calculate average daily membership for foundation aid payments under NDCC Chapter 15.1-27.</li> <li>• Required Superintendent of Public Instruction to report evaluation results to school administrators and the Governor.</li> <li>• Permitted school districts to revise distance learning plans at any time, subject to board approval, and required plan modifications to be filed with Superintendent of Public Instruction within 10 days of board approval.</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Distance learning would not specifically be permitted.</u></li> <li>• <u>Distance learning students would not specifically be counted for foundation aid payments.</u></li> </ul> <p>Not "specifically", however, Century Code does not require in-person attendance, nor prohibit remote learning. In other words, the E.O allowed what was already allowed.</p>
<p><u>No. 2020-12.2</u></p>	<p>July 28, 2020</p>	<p>Ordered eligibility for workers' compensation benefits provided under <u>Executive Order 2020-12.1</u> be extended to individuals employed by the Life Skills and Transition Center or a provider of treatment, care, programs, or services to individuals with intellectual or developmental disabilities, licensed under NDCC Chapter 25-16 or NDAC Article 75-04.</p>	<p>Workers' compensation benefits related to COVID-19 exposure and infection would not be extended to individuals employed by the Life Skills and Transition Center or a provider of treatment, care, programs, or services to individuals with intellectual or developmental disabilities, licensed under NDCC Chapter 25-16 or NDAC Article 75-04.</p>
<p><u>No. 2020-20.1</u></p>	<p>July 28, 2020</p>	<p>Extended temporary suspension of in-person continuing education requirements for</p>	<p>In-person continuing education requirements for licensing renewals of health care</p>

		licensing renewals of health care personnel, to include nursing home administrators licensed under NDCC Chapter 43-34.	personnel, including nursing home administrators licensed under NDCC Chapter 43-34, would go back into effect.
<u>No. 2020-40</u>	September 3, 2020	Suspended "patient-based" requirement for clinical competency examinations for applicants seeking initial dentist licensure from North Dakota Board of Dental Examiners, pursuant to NDAC Section 20-02-01-03.1(2).	"Patient-based" requirement for clinical competency examinations for applicants seeking initial dentist licensure from North Dakota Board of Dental Examiners, pursuant to NDAC Section 20-02-01-03.1(2), would go back into effect.
<u>No. 2020-42</u>	September 3, 2020	Suspended "ten consecutive days" limitation under NDAC Section 67.1-02-04-02, to allow interim licensed substitute teacher to remain in a classroom without limitation, where a shortage of regularly licensed substitute teachers exist.	"Ten consecutive days" limitation under NDAC Section 67.1-02-04-02 would go back into effect.
<u>No. 2020-43.2</u>	December 9, 2020	<ul style="list-style-type: none"> <li>Extended duration of the regulations for banquets, ballrooms, and event venues outlined in <u>Executive Order 2020-43</u> until 8:00 a.m. on January 8, 2021.</li> <li>Extended duration of the regulations for bars, restaurants, and food service establishments outlined in <u>Executive Order 2020-43</u> until 8:00 a.m. on January 8, 2021.</li> <li>Required dance areas in bars, restaurants, and food service establishments to close until 8:00 a.m. on January 8, 2021.</li> </ul>	<ul style="list-style-type: none"> <li>Regulations for banquets, ballrooms, and event venues (including occupancy limits, prohibition on "stand-up" service, closed dance areas, physically distant seating arrangements, and required signage) would no longer be in effect</li> <li>Regulations for bars, restaurants, and food service establishments (including occupancy limits, prohibition on "stand-up" service, closed dance areas, limitations on operating hours, physically distant seating arrangements, and required signage) would no longer be in effect</li> </ul>
<u>No. 2020-45</u>	December 18, 2020	<ul style="list-style-type: none"> <li>Suspended the minimum motor vehicle sales requirement under NDCC Section 39-22-18 for the 2021 renewal period.</li> <li>Required Department of Transportation to renew new and used automobile dealership licenses regardless of the number of retail sales completed.</li> </ul>	Automobile dealerships would be required to meet the minimum sales requirement (eight vehicles) to have their dealer license renewed under NDCC Section 39-22-18 for the 2021 renewal period.
<u>No. 2020-08.3</u>	December 31, 2020	Suspended the charging provisions of NDCC Section 52-04-07 for employers making contributions on a tax-rated basis, when benefits are paid to an individual whose unemployment is directly or indirectly related to COVID-19, effective January 3, 2021.	Charging provisions under NDCC Section 52-04-07 would go back into effect.
<u>No. 2020-43.4</u>	January 8, 2021	<p>Reiterated regulations for banquets, ballrooms, event venues, bars, restaurants, and food service establishments outlined in <u>Executive Order 2020-43.3</u>, but:</p> <ul style="list-style-type: none"> <li>Increased occupancy of banquet, ballroom, and event venues from 25% to 50%;</li> <li>Increased occupancy of bars, restaurants, and food service establishments from 50% of the licensed seating capacity to 65%, not to exceed a maximum of 200 patrons; and</li> <li>Extended the other requirements until 8:00 a.m. on January 29, 2021.</li> </ul>	<ul style="list-style-type: none"> <li>Regulations for banquets, ballrooms, and event venues (including occupancy limits, prohibition on "stand-up" service, closed dance areas, physically distant seating arrangements, and required signage) would no longer be in effect</li> <li>Regulations for bars, restaurants, and food service establishments (including occupancy limits, prohibition on "stand-up" service, closed dance areas, limitations on operating hours, physically distant seating arrangements, and required signage) would no longer be in effect</li> </ul>

