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State of California—Health and Human
Services Agency
**California Department of
Public Health**



GAVIN NEWSOM
Governor

AFL 20-26.6

February 1, 2021

TO: General Acute Care Hospitals

SUBJECT: Suspension of Regulatory Enforcement of Hospital Requirements
(This AFL supersedes AFL 20-26.5)

AUTHORITY: Proclamation of Emergency, Executive Order N-27-20 and Executive Order N-39-20

All Facilities Letter (AFL) Summary

- This AFL notifies hospitals of a temporary waiver of specified regulatory requirements due to the state of emergency related to the Coronavirus Disease 2019 (COVID-19) outbreak.
- This AFL clarifies approval is needed if a hospital is seeking a waiver of minimum nurse-to-patient ratios. Hospitals must submit a CDPH form 5000A (PDF) and provide supporting documentation to the CHCQ Duty Officer at CHCQDutyOfficer@cdph.ca.gov and copy the local district office.
- This AFL provides clarifying changes for downgrading, changing, or eliminating services and specified alternative measures for which facilities may request a staffing waiver.
- This AFL announces that as of February 1, 2021, the California Department of Public Health (CDPH) will no longer accept any new expedited staffing waivers and any new waiver must be approved by CDPH through the standard waiver process.
- This AFL announces that all existing approved staffing waivers will expire on February 8, 2021 unless CDPH determines on an individual waiver basis that there is an unprecedented circumstance.
- This revision removes references to temporary waivers associated with the Regional Stay at Home Order (PDF) and the Hospital Surge Public Health Order. These waivers are now addressed in AFL 21-09.

Pursuant to the Governor's declaration of a state of emergency related to COVID-19, the Director of CDPH may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code (HSC) and accompanying regulations with respect to any hospital or health facility identified in HSC section 1250. CDPH is temporarily waiving specified hospital licensing requirements and suspending regulatory enforcement of the following requirements as specified below:

Licensing

Hospitals seeking initial licensure or to change beds or services to their license shall submit an application online at the CDPH Health Care Facilities Online Application webpage. This shall not require approval before the hospital may provide care, although CDPH will reach out to provide technical assistance to ensure patient safety and the quality of care.

Space

All statutory and regulatory provisions related to the configuration and use of physical space and classification of beds in a hospital. Hospitals may reconfigure space as needed to accommodate observed or predicted patient surge, patient cohorting, modified infection and source control procedures, and other COVID-19 related mitigation strategies.

Temporary changes of use or modification to the physical environment must be restored to original conditions following expiration of a waiver. Where such temporary changes are to be made permanent, projects must be submitted for Office of Statewide Health Planning and Development's (OSHPDs) review and approval (whether the changes involve construction or not) no later than two weeks after waiver expiration. Permanent modifications to the physical environment or changes of use must be submitted to OSHPD as projects for review and approval (whether the changes involve construction or not) immediately.

Services

1. Detailed notifications and notification timeframes specified in HSC sections 1255.1, 1255.2, and 1255.25 that are required when a hospital plans to downgrade, change, or eliminate the level of a supplemental service. The notification procedures and timeframes may only be waived if the hospital is modifying services to address patient surge related to COVID-19. A hospital must provide notice to the public regarding the availability of supplemental services at the hospital by posting signage at the entrance of each location and on its internet website. The hospital must provide notice at least 24 hours in advance of the service change to the public and CDPH. Approval is needed if a service is being added or changed.
2. Due to the alternative arrangements available for homeless patients authorized by Executive Order N-32-20 (PDF), detailed discharge planning documentation and the provision of nonmedical services to homeless individuals specified in HSC section 1262.5 is temporarily waived.

Staffing

As of February 1, 2021, the California Department of Public Health (CDPH) will no longer accept any new expedited staffing waivers.

All existing approved staffing waivers will expire on February 8, 2021 unless CDPH determines on an individual waiver basis that there is an unprecedented circumstance.

Hospitals must maintain efforts to meet required staffing levels at all times.

If CDPH has any indication that hospital have not maintained efforts to increase staffing, CDPH will investigate and require hospitals to provide documentation of their efforts. Additionally, CDPH may do unannounced audits to assess these efforts.

This statewide waiver is approved under the following conditions:

- Hospitals shall continue to comply with adverse event and unusual occurrence reporting requirements

specified in HSC section 1279.1 and Title 22 CCR section 70737(a).

- Hospitals shall report any substantial staffing or supply shortages that jeopardize patient care or disrupt operations.
- Hospitals shall continue to provide necessary care in accordance with patient needs and make all reasonable efforts to act in the best interest of patients.
- Hospitals shall follow their disaster response plan.
- Hospitals shall follow infection control guidelines from the Centers for Medicare and Medicaid Services (CMS) and the Centers for Disease Control and Prevention (CDC) related to COVID-19.
- Hospitals shall comply with directives from their local public health department, to the extent that there is no conflict with federal or state law or directives or CDPH AFLs.

CDPH will monitor GACHs that have staffing waivers to ensure they maintain efforts to increase staffing levels and return to the required staffing levels. CDPH may revoke a staffing waiver for GACHs unable to demonstrate diligent efforts to recruit and retain staff.

If you have any questions about this AFL, please contact your local district office.

Sincerely,

Original signed by Heidi W. Steinecker

Heidi W. Steinecker
Deputy Director

Resources

- Proclamation of Emergency (PDF)
- Executive Order N-27-20 (PDF)
- Executive Order N-39-20 (PDF)
- CDPH 5000A (PDF)
- CDPH Health Care Facilities Online Application webpage
- Regional Stay at Home Order

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