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



**GAVIN NEWSOM**  
Governor

June 29, 2020

AFL 20-26.2

**TO:** General Acute Care Hospitals

**SUBJECT:** Suspension of Regulatory Enforcement of Hospital Requirements  
(This AFL supersedes AFL 20-26.1)

**AUTHORITY:** Executive Order N-27-20

**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 has been updated to extend the waiver until March 1, 2021.
- This AFL has additionally been updated to provide clarity on when a hospital can request a staffing waiver and to provide information on when hospitals need to seek approval from the Office of Statewide Health Planning and Development (OSHPD) for space modifications.

Pursuant to the Governor's declaration of a state of emergency related to COVID-19, the Director of the California Department of Public Health (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 OSHPD's 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 a level of service. A hospital must provide notice to the public regarding the availability of 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.
2. Due to the alternative arrangements available for homeless patients authorized by Executive Order N-32-20, detailed discharge planning documentation and the provision of nonmedical services to homeless individuals specified in HSC section 1262.5 is temporarily waived.

### **Staffing**

Hospitals shall bring staffing levels into state ratio compliance within two weeks of this AFL issue date. Only those hospitals experiencing a COVID-19 related surge of patients or staffing shortages resulting from COVID-19 impacts including but not limited to: increasing community spread, increasing need to meet demand for surge either by regional surge or incoming transfers, daycare or school closures, staffing absenteeism for multiple reasons, or an emergency such as a fire or public safety power shutoff, may request a waiver of minimum nurse-to-patient ratios. A hospital seeking a staffing waiver must submit a CDPH form 5000A (PDF) and provide supporting documentation to the CHCQ Duty Officer at [CHCQDutyOfficer@cdph.ca.gov](mailto:CHCQDutyOfficer@cdph.ca.gov) and copy the local district office. CHCQ is able to respond quickly to urgent requests from hospitals seeking a waiver 24/7 and should only mark urgent if needed approval within 8 hours. Hospitals must resume mandatory staffing levels as soon as feasible. Temporary staffing waivers will only be approved for 90-days. A hospital may reapply for a waiver if the conditions necessitating the waiver still apply.

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 California Code of Regulations 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 understands the importance of ensuring the health and safety of all Californians and maintaining vital access to acute care services. CDPH encourages facilities to implement contingency plans to address staff absenteeism and the rapid influx of patients. CDPH will continue to promote quality healthcare, provide technical assistance

and support compliance with core health and safety requirements, pursuant to Executive Order N-27-20. CDPH is taking this unprecedented action due to the significant challenges California's health care system is facing as a result of the

COVID-19 outbreak. As a result of this temporary waiver, hospitals do not need to submit individual program flexibility requests for the requirements specified above, except when seeking a staffing waiver.

This waiver is valid until **March 1, 2021** and may be extended based on any updated Executive Orders or guidance from the Centers for Medicare & Medicaid Services (CMS) or the Centers for Disease Control and Prevention (CDC).

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

- Executive Order N-27-20 (PDF)
- CDPH 5000A (PDF)
- CDPH Health Care Facilities Online Application webpage

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