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March 25, 2020

To: All Hospitals and Critical Access Hospitals

Re: Guidance regarding licensure changes required for Covid19 hospital response:

On March 13, 2020, President Trump declared a National Emergency under the Stafford Act, and Secretary Azar has also issued a Public Health Emergency declaration. These steps allow for hospitals to submit a request to waive certain federal regulatory requirements, a request known as “1135 waiver”.

Attached to this document is a summary of the recent Social Security Act section 1135 waiver issued by the Secretary of HHS. Full information about this process can be obtained at:
<https://www.cms.gov/About-CMS/Agency-Information/Emergency/EPRO/Current-Emergencies/Current-Emergencies-page>.

There are no conflicts between the blanket 1135 waivers issued by the federal government, and the Hospital Licensing Rules under the State of Maine’s Division of Licensing and Certification (“DLC”) authority. Therefore, hospitals may comply with the federal waiver, and do not also need to submit a separate waiver request to DLC regarding State Licensing Rules.

In addition to the current blanket 1135 waivers issued by the federal government, DLC is exercising its authority under 2.7.1 of the RULES FOR THE LICENSING OF HOSPITALS, 10-144 C.M.R. Ch. 112 to issue the following blanket waiver of State hospital licensing rules for COVID-19 hospital response only:

1. 1.3 Critical Access Hospital definition -25 bed and 96 hour LOS waived
2. 2.11 No change in licensed capacity may be implemented (including number of beds) without DLC approval
3. 2.5.8.3 The fee for a temporary license will be waived
4. 2.9.4 Specifications of a license-the license must specify the current maximum allowable licensed beds.

Hospitals may still submit to DLC a request to waive applicable rules that are *not* listed above that they find are necessary to meet their specific situations during this crisis. DLC will expedite reviews of all waivers received related to COVID-19 response.

Thus, as this crisis continues and hospitals find the need to exceed their current licensed-bed capacity or alter their use of inpatient units, we want to ensure you can quickly and safely flex up your hospital operations to meet patient needs, without delays caused by prior approval processes.

Hospitals are asked to make these waiver requests in writing to DLC, clearly stating:

- 1) how many temporary, licensed beds you are requesting be added to your current capacity;

- 2) how long you anticipate needing those additional beds (the increase can be extended upon hospital notification); and
- 3) What other changes to your hospital's programs are being implemented in accordance with your requested increase in inpatient beds (such as conversion of med surge unit to step down ICU, conversion of previous observation units to temporary in-patient units, etc.).

Any hospital looking to temporarily convert off-campus outpatient facilities to off campus in-patient units should contact our office for guidance. Any off-campus facility that a hospital desires to designate as an off-campus in-patient unit will need to be approved by the Maine State Fire Marshalls Office as well.

Please submit all waiver requests, including any desired CMS 1135 waiver requests to our office at the following:

Dlrs.info@maine.gov

Please feel free to contact our office if you have any questions.



Bill Montejo, RN
Director
DHHS Division of Licensing & Certification