NEW YORK STATE OF OPPORTUNITY. Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

LISA J. PINO, M.A., J.D.
Executive Deputy Commissioner

December 16, 2020

Dear Hospital Administrator:

As you know, we are in a difficult situation again with COVID. The largest spread is from small gatherings and we expect that to increase over the holidays. Small gathering spread is very difficult for government to control.

We are assuming a continued increase of hospitalizations throughout mid-January. Hospital capacity will be a major battle. We learned many lessons through the spring. Hospitals can now reasonably predict their expected demand by observing the infection rate increase and hospitalization rate increase in the zip codes in their area. The data is published daily. Unlike the surprise in the spring, we know when and where numbers will increase.

The department has three directives.

First, hospital systems must now complete a patient load balancing plan among all facilities in their system. They should anticipate which hospitals in their system will have the greatest demand and have a plan in place to transfer patients prior to admission - after a medical screening examination – to facilities in their system with more capacity.

Systems should also account for smaller safety net and independent hospitals in their load balancing plan.

This was the lesson from the spring at Elmhurst Hospital. Elmhurst, a New York City Health & Hospitals Corporation facility, is located in Queens. Corona and the Elmhurst neighborhoods in Queens were a COVID hot spot and overwhelmed Elmhurst Hospital. However, the Health & Hospitals system had other hospitals in their own system with additional capacity that were not utilized on a timely basis. Once a patient is admitted it is often difficult to transfer them. Patients must be diverted prior to admission. This should include instructions to local ambulance providers as to which hospitals they should bring patients.

Also, beyond coordinating their own system, hospital systems must form agreements with neighboring hospital systems to patient load balance between the systems or among several systems, as the situation demands. It is too late to develop these plans once the numbers are overwhelming.

Second, independent hospitals that are not part of a hospital system must forge relations with neighboring hospital systems to participate in local patient load balancing. Independent hospitals, especially those located in high COVID positive communities, or smaller isolated hospitals, pose the greatest risk of being overwhelmed. They must have transfer agreements in place now with neighboring hospitals and systems, or inform the New York State Department of Health immediately.

Third, DOH has directed that hospitals must be prepared to achieve 15% staffed bed capacity growth within 72 hours if a significant COVID surge occurs. If a hospital is, or would be, unable to achieve this "flex up" of beds if necessary, they must cancel elective procedures or expand bed capacity to ensure they always can have an additional 15% staffed bed availability within 72 hours. "Bed capacity" is defined as an available bed with available staff and equipment for purposes of patient care within 72 hours.

DOH understands that hospital systems have a number of alternatives to create capacity within their systems. They can shift staff, open and close facilities, move surgeries, etc. DOH defines 15% as the net available capacity after all adjustments are made by the hospital or hospital system. To be clear, after all measures to create capacity are exhausted, DOH must know if a hospital or a hospital system has less than 15% staffed bed availability given the statistical rate of hospitalization increase IN THE NEXT THREE WEEKS in their area. Three weeks' notice will allow the state to take emergency actions. This notification is necessary for the state to Pause (shutdown economic activity) in the region to reduce the viral spread. This is critical.

Ken Raske of Greater New York Hospital Association and Bea Grause of the Hospital Association of New York State will be assisting New York State Department of Health to confirm the above directives are being followed. Michael Dowling of Northwell Health, the largest system in the state, will be working with Ken Raske and is also available to assist with Bea Grause and the upstate hospitals and systems.

If a system anticipates being over 85% capacity given the infection rate growth or the hospitalizations rate growth in their area zip codes at any time, they should notify DOH immediately so that we can make alternative emergency plans.

All the above data is to be provided in the daily HERDS submission. To ensure accurate data, the daily HERDS submission must be attested to by the CEO of the hospital.

This will be a difficult period through the holidays and until the vaccine hits critical mass. It will test all of us. However, we learned much from the spring and if we follow those lessons, we will affirm our reputation as the best health system on the globe. Failure to follow these directives completely and fully, and/or failure to notify New York State DOH well prior to a critical capacity issue are serious infractions and will be treated as such by DOH. Sanctions such as license suspension and revocation will be considered, or for false or misleading information appropriate criminal sanctions may be pursued.

To ensure compliance with the directives outlined in this letter, the CEO of each hospital/hospital system in receipt must certify to its content and return a signed copy to the Department of Health within 48 hours.

Sincerely,

Howard Zucker M.D.

Howard A. Zucker, M.D., J.D.
Commissioner