STATE OF ILLINOIS

EXECUTIVE DEPARTMENT

SPRINGFIELD, ILLINOIS

FILED
INDEX DEPARTMENT
APR 16 2020
IN THE OFFICE OF
SECRETARY OF STATE

April 16, 2020 Executive Order 2020-26

EXECUTIVE ORDER IN RESPONSE TO COVID-19
(COVID-19 EXECUTIVE ORDER NO. 24)

WHEREAS, Coronavirus 2019 (COVID-19) is a novel severe acute respiratory illness that can spread among people through respiratory transmissions and present with symptoms similar to those of influenza; and,

WHEREAS, the number of COVID-19 cases in Illinois is increasing exponentially and across more locations in Illinois and is resulting in an increasing number of deaths; and,

WHEREAS, hospitals must be able to provide necessary care in accordance with patient needs and make all reasonable efforts to act in the best interests of patients; and,

WHEREAS, ensuring the State of Illinois has adequate bed capacity, supplies, and providers to treat patients affected with COVID-19, as well as patients afflicted with other maladies, is of critical importance; and,

WHEREAS, eliminating any obstacle to the effective provision of medical treatment at Illinois hospitals is necessary to ensure the Illinois healthcare system has adequate capacity to provide care to all who need it; and,

WHEREAS, the ongoing spread of COVID-19 and the danger the virus poses to the public's health and wellness requires hospitals to devote substantial resources to the healthcare response to the COVID-19 pandemic in Illinois; and,

WHEREAS, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area on March 9, 2020 (First Gubernatorial Disaster Proclamation) in response to the outbreak of COVID-19; and,

WHEREAS, I again declared all counties in the State of Illinois as a disaster area on April 1, 2020 (the Second Gubernatorial Disaster Proclamation, and, together with the First Gubernatorial Disaster Proclamation, the Gubernatorial Disaster Proclamations) in response to the exponential spread of COVID-19; and,

WHEREAS, I find it necessary to take additional, significant measures for the preservation of public health and safety throughout the entire State of Illinois and to ensure that our healthcare delivery system is capable of serving those who are sick, including by ensuring that individuals experiencing symptoms of COVID-19 are able to be treated in an effective and expeditious manner; and,

WHEREAS, the Hospital Licensing Act, 210 ILCS 85/1 et seq., and its corresponding regulations, set forth the detailed regulatory framework for hospitals licensed in Illinois; and,

WHEREAS, the Hospital Report Card Act, 210 ILCS 86/1 et seq., and its corresponding regulations, require hospitals to submit quarterly reports to the Illinois Department of Public Health (IDPH or Department) with information such as staffing levels and infection-related measures for the facility; and,

WHEREAS, the Department of Public Health Powers and Duties Law, 20 ILCS 2310/2310-1 et seq., and its corresponding regulations, set forth the powers and duties of the IDPH; and,

WHEREAS, the Illinois Adverse Health Care Events Reporting Law of 2005, 410 ILCS 522/10-1 et seq., and its corresponding regulations, establish a system for hospitals to report adverse health care events to the IDPH; and,

WHEREAS, the Emergency Medical Services (EMS) Systems Act, 210 ILCS 50/1 et seq., and its corresponding regulations, provide minimum standards for the statewide delivery of emergency medical services;

THEREFORE, by the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(2), 7(3), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, I hereby Order the following:

Section 1. During the duration of the Gubernatorial Disaster Proclamations, the IDPH shall exercise discretion regarding enforcement of all provisions of the Hospital Licensing Act, 210 ILCS 85/1 et seq.; the Emergency Medical Services (EMS) Systems Act, 210 ILCS 50/1 et seq.; the Department of Public Health Powers and Duties Law, 20 ILCS 2310/2310-1 et seq.; the Illinois Adverse Health Care Events Reporting Law of 2005, 410 ILCS 522/10-1 et seq.; and corresponding regulations in recognition of the need for Illinois hospitals and healthcare providers to make accommodations in response to the COVID-19 pandemic and to ensure patient safety.

Section 2. During the duration of the Gubernatorial Disaster Proclamations, the following hospital licensing requirements of the Hospital Licensing Act, 210 ILCS 85/1 et seq., are hereby suspended:

a. 210 ILCS 85/6.09. Notice of discharge; aged patients and patients with disabilities on Medicare.
b. 210 ILCS 85/6.09b. Patient notice of observation status.
c. 210 ILCS 85/6.14g. Reports to the Department; opioid overdoses.
d. 210 ILCS 85/6.22. Arrangement for transportation of patient by an ambulance service provider.
e. 210 ILCS 85/10. Board creation; Department rules.
f. 210 ILCS 85/10.8. Requirements for employment of physicians.
g. 210 ILCS 85/10.10. Nurse Staffing by Patient Acuity.
h. 210 ILCS 85/11.8. Closed captioning required.

Corresponding regulations in the Illinois Administrative Code implementing these statutory provisions are also hereby suspended or modified as set forth in emergency rules to be promulgated by the IDPH.

Section 3. During the duration of the Gubernatorial Disaster Proclamations, all provisions set forth in the Hospital Report Card Act, 210 ILCS 86/1 et seq., except Section 35 (Whistleblower Protections) and Section 40 (Private Right of Action), and the corresponding regulations set forth in Title 77, Part 255 of the Illinois Administrative Code, are hereby suspended.

Section 4. During the duration of the Gubernatorial Disaster Proclamations, the following statutory provisions of the Department of Public Health Powers and Duties Law, 20 ILCS 2310/2310-1 et seq., and the corresponding regulations set forth in Title 77, Part 250 of the Illinois Administrative Code, are hereby suspended:

a. 20 ILCS 2310/2310-218(c). Phlebotomy on Children and Adults with Intellectual and Developmental Disabilities.

b. 20 ILCS 2310/2310-540. Uterine cytologic examinations for cancer. This provision is suspended only to the extent it requires every hospital licensed by the State of Illinois to offer a uterine cytologic examination for cancer to every female in-patient 20 years of age or over unless considered contra-indicated by the attending physician or unless it has been performed within the previous year, and to the extent it requires the hospital to maintain records to show either the results of the test or that the test was not applicable or that it was refused.

Section 5. During the duration of the Gubernatorial Disaster Proclamations, all reporting deadlines set forth in the Illinois Adverse Health Care Events Reporting Law of 2005, 410 ILCS 522/10-1 et seq., and the corresponding regulations set forth in Title 77, Part 235 of the Illinois Administrative Code, are hereby suspended. This does not suspend the obligation to report, only the timing of such report. The deadlines shall resume upon the termination of all Gubernatorial Disaster Proclamations.

Section 6. During the duration of the Gubernatorial Disaster Proclamations, the Emergency Medical Services (EMS) Systems Act, 210 ILCS 50/1 et seq., and the corresponding regulations set forth in Title 77, Part 515 of the Illinois Administrative Code are hereby suspended to the extent necessary to permit EMS personnel or services to transport patients to and alternate care facility (ACF) authorized by this Executive Order.

Section 7. During the duration of the Gubernatorial Disaster Proclamations, (a) hospitals licensed by IDPH, or (b) the State of Illinois, through one of its agencies or in cooperation with one or more federal or local government bodies, may establish an ACF to provide room and board, nursing, and diagnosis or treatment to COVID-19 patients, or to non-COVID-19 patients in order to increase regional hospital capacity to respond to COVID-19 pursuant to emergency rules promulgated by IDPH. The Hospital Licensing Act, 210 ILCS 85/1 et seq., and its corresponding regulations set forth in Title 77, Part 250 of the Illinois Administrative Code, are hereby suspended in their entirety as applicable to the ACFs, provided the ACFs meet the standards set forth in emergency rules promulgated by the IDPH.

Section 8. The IDPH shall file additional emergency rules as needed to effectuate the intent of this Executive Order.

Section 9. This Executive Order and any emergency rules promulgated by the IDPH shall be interpreted consistent with any waivers, regulations, other official guidance issued by the federal Centers for Medicare and Medicaid Services or the U.S. Department of Health and Human Services pertaining to the following: establishment of temporary expansion sites by hospitals; the physician self-referral law; the Emergency Treatment & Labor Act (EMTALA); Medicare, Medicaid and Children's Health Insurance Program participation requirements; and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rule.

Section 10. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

JB Pritzker, Governor

Issued by the Governor April 16, 2020
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