GOVERNOR GREG ABBOTT

September 17, 2020

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
11:30AM O'CLOCK
SEP 17 2020
Secretary of State

The Honorable Ruth R. Hughs
Secretary of State
State Capitol Room 1E.8
Austin, Texas 78701

Dear Secretary Hughs:

Pursuant to his powers as Governor of the State of Texas, Greg Abbott has issued the following:

> Executive Order No. GA-31 relating to hospital capacity during the COVID-19 disaster.

The original executive order is attached to this letter of transmittal.

Respectfully submitted,

Gregory S. Davidson
Executive Clerk to the Governor

GSD/gsd

Attachment

Executive Order

BY THE
GOVERNOR OF THE STATE OF TEXAS

Executive Department
Austin, Texas
September 17, 2020

EXECUTIVE ORDER
GA 31

Relating to hospital capacity during the COVID-19 disaster.

WHEREAS, I, Greg Abbott, Governor of Texas, issued a disaster proclamation on March 13, 2020, certifying under Section 418.014 of the Texas Government Code that the novel coronavirus (COVID-19) poses an imminent threat of disaster for all counties in the State of Texas; and

WHEREAS, in each subsequent month effective through today, I have renewed the disaster declaration for all Texas counties; and

WHEREAS, I have issued executive orders and suspensions of Texas laws in response to COVID-19, aimed at protecting the health and safety of Texans and ensuring an effective response to this disaster; and

WHEREAS, a shortage of hospital capacity would hinder efforts to cope with the COVID-19 disaster, and at various times during this disaster, hospital capacity was being overly diminished by surgeries and procedures that were not medically necessary to correct a serious medical condition or to preserve the life of a patient; and

WHEREAS, following previous executive orders that had enacted more stringent measures to avoid a shortage of hospital capacity or personal protective equipment, I issued Executive Order GA-19 on April 27, 2020; and

WHEREAS, among its provisions, Executive Order GA-19 required all hospitals licensed under Chapter 241 of the Texas Health and Safety Code to reserve at least 15 percent of their hospital capacity for treatment of COVID-19 patients, and continued the suspensions of various hospital licensing requirements that would stand in the way of implementing increased occupancy in the event of surge needs for hospital capacity due to COVID-19; and

WHEREAS, in light of subsequent, elevated concerns about hospital capacity in certain parts of the state, I also issued Executive Order GA-27 on June 25, 2020, requiring the postponement of certain surgeries and procedures in Bexar, Dallas, Harris, and Travis counties; and

WHEREAS, by proclamations dated June 30 and July 9, 2020, I added to the list of counties covered by Executive Order GA-27, such that its prohibition has applied in all counties within Trauma Service Areas J, K, M, O, P, Q, R, S, T, U, and V; and

WHEREAS, though there are still concerns over hospital capacity in some parts of the state, government officials should look for the least restrictive means of coping with the

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COVID-19 disaster; and

WHEREAS, in the Texas Disaster Act of 1975, the legislature charged the governor with the responsibility "for meeting … the dangers to the state and people presented by disasters" under Section 418.011 of the Texas Government Code, and expressly granted the governor broad authority to fulfill that responsibility; and

WHEREAS, under Section 418.012, the "governor may issue executive orders … hav[ing] the force and effect of law;" and

WHEREAS, failure to comply with any executive order issued during the COVID-19 disaster is an offense punishable under Section 418.173 by a fine not to exceed $1,000, and may be subject to regulatory enforcement;

NOW, THEREFORE, I, Greg Abbott, Governor of Texas, by virtue of the power and authority vested in me by the Constitution and laws of the State of Texas, do hereby order the following on a statewide basis effective immediately:

Every hospital that is licensed under Chapter 241 of the Texas Health and Safety Code, and is also located in an area with high hospitalizations as defined below, shall postpone all surgeries and procedures that are not medically necessary to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician; provided, however, that this prohibition shall not apply to any surgery or procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete any hospital capacity needed to cope with the COVID-19 disaster.

"Areas with high hospitalizations" means any Trauma Service Area that has had seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of all hospitalized patients exceeds 15 percent, until such time as the Trauma Service Area has seven consecutive days in which the number of COVID-19 hospitalized patients as a percentage of all hospitalized patients is 15 percent or less. A current list of areas with high hospitalizations will be maintained at www.dshs.texas.gov/ga3031.

Furthermore, every hospital that is licensed under Chapter 241 of the Texas Health and Safety Code shall reserve at least 10 percent of its hospital capacity for treatment of COVID-19 patients, accounting for the range of clinical severity of COVID-19 patients, as determined by the Texas Health and Human Services Commission; provided, however, that any hospital that is part of a hospital system consisting of more than one member hospital may reserve less than 10 percent of its capacity so long as the cumulative capacity reserved throughout the hospital system within the same Trauma Service Area is at least 10 percent.

Pursuant to Section 418.016(a) of the Texas Government Code, I hereby continue the suspension of the following provisions to the extent necessary to implement increased occupancy in the event of surge needs for hospital capacity due to COVID-19:

25 TAC Sec. 133.162(d)(4)(A)(iii)(I);

25 TAC Sec. 133.163(f)(1)(A)(i)(II)–(III);

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25 TAC Sec. 133.163(f)(1)(B)(i)(III)–(IV);

25 TAC Sec. 133.163(m)(1)(B)(ii);

25 TAC Sec. 133.163(t)(1)(B)(iii)–(iv);

25 TAC Sec. 133.163(t)(1)(C);

25 TAC Sec. 133.163(t)(5)(B)–(C); and

any other pertinent regulations or statutes, upon written approval of the Office of the Governor.

This executive order supersedes Executive Orders GA-19 and GA-27, but does not supersede Executive Orders GA-10, GA-13, GA-17, GA-24, GA-25, GA-29, or GA-30. This executive order shall remain in effect and in full force until modified, amended, rescinded, or superseded by the governor.

Given under my hand this the 17th day of September, 2020.

GREG ABBOTT
Governor

ATTESTED BY:

RUTH R. HUGHS
Secretary of State

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