Indiana State Department of Health
An Equal Opportunity Employer

Eric J. Holcomb
Governor

Kristina Box, MD, FACOG
State Health Commissioner

THIRD EMERGENCY ORDER GRANTING TEMPORARY BLANKET WAIVERS FOR HOSPITALS

Pursuant to the "Declaration of Public Health Emergency for Coronavirus Disease 2019 Outbreak" issued by Governor Eric Holcomb on March 6, 2020 and as supplemented (the "Governor's Declaration"), and as authorized by IC 4-21.5-4-1, IC 16-28-1-10, and the September 18, 1991 resolution of the Executive Board of the Indiana State Department of Health ("ISDH"), the Indiana State Health Commissioner hereby **ORDERS** as follows:

1. ISDH has received several requests for blanket waivers of certain state hospital rules. Requests received to date are addressed collectively in the attached "Indiana State Department of Health Blanket Waivers for Hospitals – March 27, 2020" document, which is incorporated as if fully restated herein. This order affirms that the listed waiver requests are respectively granted, denied, or deemed unnecessary, subject to specified terms, conditions, and limitations. For sake of clarity, some decisions (e.g., for waivers deemed unnecessary) are accompanied by explanations of how ISDH interprets the rule at issue.

2. The waivers granted herein apply only to and for hospitals that have (a) declared a COVID-19 facility emergency and (b) notified ISDH of the declaration. This declaration and notice need not be formal, and may be sent by email to any of the following:

   Randall Snyder, Director of Acute & Continuing Care (RSnyder1@isdh.IN.gov)
   John Lee, Deputy Director of Acute & Continuing Care (Jlee@isdh.IN.gov)
   Jennifer Hembree, Hospital Survey Program Director (Jhembree@isdh.IN.gov)

3. Every remodel, renovation, conversion, repurposing, addition, and other physical or structural change made under a waiver or waivers granted herein is subject to the following additional terms and conditions:

   A. No later than three (3) days after the remodel or other change has been made, the facility must:

      1. Notify ISDH of the change;
      2. Supply ISDH with drawings (blueprints not required) and narrative sufficient to show and describe what changes have been or will be made; and
      3. Request temporary approval of the change by ISDH, with retroactive effect if needed.

   B. If the facility does not wish to make permanent any remodel or other changes made under one or more of the waivers herein, the facility must:

1. Roll back or undo the change within forty-five (45) days after expiration or withdrawal of the Governor's Declaration.
2. Notify ISDH as soon as the rollback or undoing has been completed.

C. If the facility does wish to make permanent any remodel or other changes made under this waiver, it must submit a request for permanent approval to the ISDH Health Care Engineering program.

1. The request must be submitted to ISDH no later than forty-five (45) days after expiration or withdrawal of the Governor's Declaration.
2. Review of the request will proceed under the applicable law and guidance in effect at the time of the request.

4. No other state rule or portion of a state rule is affected by this Emergency Order or any waiver granted herein.

5. Each waiver granted herein is effective as of March 6, 2020, and shall expire upon the earliest of (a) expiration or withdrawal of the Governor's Declaration, including any extensions thereof; (b) revocation of this Emergency Order; or (c) expiration of this Emergency Order under IC 4-21.5-4-5(a)(3), including any extensions thereof, plus such additional time as the ISDH deems necessary to enable an orderly transition by facilities back to compliance with the rules or parts of rules herein waived.

6. The waivers granted herein are unique to the present emergency, and are strictly limited in effect to this time and specific situation. No part of the waivers or their language, terms or conditions shall apply or have relevance to other waivers or situations. These waivers neither establish nor continue any precedent, policy, or approach for issuance of waivers individually or in general.

7. The ISDH has affirmatively determined that granting the waivers herein will not adversely affect the health, safety and welfare of any affected residents or patients.

SO ORDERED as of the date set forth below

Kristina Box, MD, FACOG
State Health Commissioner

By:

Matthew Foster, Assistant Commissioner
Consumer Services & Health Care Regulation

Date: March 27, 2020

INDIANA STATE DEPARTMENT OF HEALTH

Blanket Waivers for Hospitals – March 27, 2020

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Remove prohibition on prescribing of opioids via telemedicine until the end of the national emergency.	Prohibits issuance of prescription opioids other than partial agonists through the use of telemedicine	**No action** [not an ISDH statute]	IC 25-1-9.5-8
Create and exception for times of declared emergency for infections pandemic mirroring federal waiver: Physician may practice in Indiana even if not licensed in Indiana, if physician has an equivalent license from another State (and is not affirmatively barred from practice there or in Indiana).	Prohibits out-of-state practitioners to practice medicine in Indiana, even during a declared state of emergency	**No action** [not an ISDH statute]	IC 22.5-1-1.1
Allow for extensions of physician certification as needed during the national emergency.	The CEO shall develop policies and programs for … Ensuring that all health care workers, including contract and agency personnel, for whom a license, registration, or certification is required, maintain current license, registration, or certification and keep documentation of same so that it can be made available within a reasonable period of time." [A0310]	**No waiver is required for the hospital to do as requested.** This rule requires only that the CEO develop policies and programs for the defined items, and those policies should pre-exist the public health emergency. The "reasonable period" requirement can vary depending on the situation, including existence of a declared public health emergency.	410 IAC 15-1.4-1(c)(6)(C)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Suspend all staffing and personnel requirements for food and dietetic services until discontinuation of the national emergency.	"The food and dietetic service shall have . . . administrative and technical personnel competent in their respective duties." [A0520] ISDH Guidance to Surveyors also requires verification of "adequate levels of staffing."	**No waiver is required for the hospital to do as requested.** Rule requires only that the food service be staffed by competent "administrative and technical personnel." No ratios or specific numbers are required so hospital has flexibility, even in an emergency. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-1(b)(3)
Suspend requirement for quarterly meetings of the infection control committee.	"The infection control committee shall be a hospital or medical staff committee that meets at least quarterly…." [A0570].	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration.	410 IAC 15-1.5-2(f)(1)
Suspend infection control committee duty to document work on corrective actions.	"The infection control committee responsibilities shall include… "[r]ecommending corrective action plans on identified problems, reviewing outcomes, and assuring resolution." [A0588] ISDH Guidance to Surveyors adds: "Review the minutes for committee input and action."	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-2(f)(3)(B)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Suspend infection control committee duty to document review of employee exposure incidents.	"The infection control committee responsibilities shall include… [r]eviewing employee exposure incidents and making appropriate recommendations to minimize risk. [A00590] ISDH Guidance to Surveyors adds: "Determine that there is an active on-going employee health program, including documentation of incidents and follow-up. Check the TB and blood and body fluid program for compliance.	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-2(f)(3)(C)
Waive all limitations on reuse of any disposables.	"The infection control committee responsibilities shall include [developing a policy on] [r]euse of disposables." [A0600] ISDH Guidance to Surveyors adds: "Verify that the hospital policy addresses the use and re-use of disposables in accordance with the product manufacturer's recommendations on allowing re-use."	**ISDH partially waives this rule**, conditioned as follows: Rule is waived only as to personal protective equipment (PPE) for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. To date, no hospital has demonstrated a need for waiver of all restrictions on the reuse of any disposables, which the request appears to seek. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-2(f)(3)(D)(v)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Waive the infection control committee's duty to review and recommend changes to the hospital's isolation system procedures, policies, and programs.	"The infection control committee responsibilities shall … Review[ ] and recommend[ ] changes in procedures, policies, and programs which are pertinent to infection control. These include … An isolation system." [A00602] ISDH Guidance to Surveyors adds: "Verify that there has been monitoring of compliance by hospital staff in accordance with hospital policy on isolation."	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-2(f)(3)(D)(vi)
Suspend competency certification of nurses and other personnel.	"All nursing and other hospital personnel performing out-of-laboratory testing shall have annually updated performance certification maintained in the employee file for the procedures being performed." [A0672]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) If an employee's annual certification renewal date falls during a hospital-declared emergency, renewal may be delayed and completed within ninety (90) days of the end of the emergency.	410 IAC 15-1.5-3(e)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Suspend requirement that the medical staff approve "[p]olicies covering appropriate refrigeration requirements [for bodies] and length of holding bodies."	"If sufficient or suitable outside facilities are not provided by undertakers or others, the hospital shall have a morgue or a low temperature body holding room." [A0674] ISDH Guidance to Surveyors adds: "Verify that policies, approved by the medical staff, cover body holding, autopsies, and body pick-up and transfer. If the hospital policy allows autopsies, tour the autopsy area and verify that there is a refrigerated storage unit and that personal hygiene facilities are available nearby."	**ISDH partially waives rule**, conditioned as follows: Rule is waived as to the requirement that "Policies covering appropriate refrigeration requirements and length of holding bodies shall be approved by the medical staff." To date, no hospital has shown that "sufficient or suitable outside facilities are not provided by undertakers or others," a clear pre-condition to the hospital's creation of "a morgue or a low temperature body holding room." ISDH will act rapidly on requests for waiver of other parts of this rule on a case-by-case basis as conditions warrant. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-3(f)
Waive all authentication requirements for medical records.	"The hospital shall use a system of author identification and record maintenance that ensures the integrity of the authentication and protects the security of all record entries. Each entry shall be authenticated promptly in accordance with the hospital and medical staff policies." [A0718]	**ISDH partially waives the rule**, conditioned as follows: Rule is waived as to the requirement that "Each entry shall be authenticated promptly in accordance with the hospital and medical staff policies," to remove possible confusion about the meaning of "promptly" during the emergency. **This waiver is intend to permit post hoc authentication, with no stated time requirement.**	410 IAC 15-1.5-4(c)(3)
Waive the requirement that inpatient records must document the patient's medical history and physical examination within specified time frames.	"All inpatient records … shall document and contain … [t]he medical history and physical examination of the patient done within the time frames as prescribed by the medical staff rules and section 5(b)(3)(M) of this rule." [A0751]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) Each patient's medical history and physical examination must be documented as quickly as practicable under the circumstances but with no stated time frame.	410 IAC 15-1.5-4(f)(2)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Permit certain advanced practice providers other than physicians to authenticate discharge summaries.	"All inpatient records … shall document and contain … A discharge summary authenticated by the physician." [A0762]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) The discharge summary may be authenticated by the physician or by other advanced practice providers who are credentialed to do so by the medical staff.	410 IAC 15-1.5-4(f)(13)
Permit certain advanced practice providers other than physicians to authenticate short stay record forms.	"A short stay record form … shall document and contain … Authentication by the physician and other responsible personnel in attendance." [A00772]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) The short stay record form may be authenticated by (1) the physician or a non-physician advanced practice provider who is credentialed to do so by the medical staff, and (2) other responsible personnel in attendance.	410 IAC 15-1.5-4(g)
Permit the extension of two-year privileges appointments that are set to expire during the hospital's declared emergency.	"The medical staff shall … Make recommendations to the governing board on the appointment or reappointment of [an] applicant for a period not to exceed two (2) years." [A0810]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) If a physician's hospital privileges are set to expire during the hospital's declared emergency, medical staff may extend those privileges to expire ninety (90) days after the emergency ends.	410 IAC 15-1.5-5(a)(3)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Permit verbal orders to be authenticated within seven (7) days instead of just forty-eight (48) hours.	The medical staff bylaws and rules shall include "A requirement that all verbal orders must be authenticated … within forty-eight (48) hours …." [A0871]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) All verbal orders must be authenticated within seven (7) days, irrespective of whether medical staff bylaws or rules set out a shorter period.	410 IAC 15-1.5-5(b)(3)(O)
Waive the requirement that medical staff should attempt to secure autopsies in all cases of unusual deaths and educational interest.	"The medical staff should attempt to secure autopsies in all cases of unusual deaths and educational interest." [A0874]	**No waiver is required for the hospital to do as requested.** Deaths tied to COVID-19 are not "unusual" for purposes of this rule, meaning no autopsy will be expected for such cases. Whether any other death is "unusual" will remain a physician/hospital determination.	410 IAC 15-1.5-5(c)
Waive staffing ratios for nurses and other required personnel.	"The nursing service shall have … Adequate numbers of licensed registered nurses, licensed practical nurses, and other ancillary personnel necessary for the provision of appropriate care to all patients…." [A0926] ISDH Guidance to Surveyors adds: "Review the staffing schedules and a sampling of nursing service personnel records" to determine "there are sufficient personnel…."	**No waiver is required, because the rule sets no defined staffing ratios or numerical requirements.** The hospital must simply have "adequate numbers" of personnel to meet patient needs. What qualifies as "adequate numbers" can vary depending on the circumstances, including the existence of a declared public health emergency. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-6(b)(1)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Waive staffing ratios for pharmacy personnel.	"The pharmacy service shall have an adequate number of personnel to ensure quality pharmaceutical services, including emergency services." [A01012] ISDH Guidance to Surveyors adds: "Review a sampling of pharmaceutical service personnel records" to determine "the pharmacy service staff is sufficient in number and training."	**No waiver is required, because the rule sets no defined staffing ratios or numerical requirements.** The pharmacy must simply have "an adequate number of personnel" to meet patient needs. What qualifies as "an adequate number" can vary depending on the circumstances, including the existence of a declared public health emergency. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-7(b)(3)
Waive monthly inspections for areas where drugs and biologicals are stored.	The pharmacy service must have "[w]ritten policies and procedures" that "[e]nsure the monthly inspection of all areas where drugs and biologicals are stored…." [A1020]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B Requirement of monthly inspections is waived for the first ninety (90) days after the hospital declares a facility emergency or until the emergency ends, whichever is sooner. If the emergency extends beyond ninety (90) days, inspections then must occur at least every sixty (60) days until the emergency ends.	410 IAC 15-1.5-7(d)(2)
For mobile and temporary structures, waive the requirement that hospital buildings must meet State fire and building codes.	"The hospital shall provide a physical plant and equipment that meet the statutory requirements and regulatory provisions of the state department of fire and building services, including 675 IAC 22, Indiana fire prevention codes, and 675 IAC 13, Indiana building codes." [A1112]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) Requirements of 410 IAC 15-1.5-8(a)(3) are waived for approved mobile and temporary structures on or adjacent to hospital premises.	410 IAC 15-1.5-8(a)(3)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Waive requirement that the hospital and its grounds must have "no condition … that may be conducive to the harborage or breeding of insects, rodents, or other vermin."	The "physical plant and the overall hospital environment shall be developed and maintained in such a manner that the safety and well-being of patients are assured as follows: … No condition in the facility or on the grounds shall be maintained that may be conducive to the harborage or breeding of insects, rodents, or other vermin." [A1114]	**ISDH denies waiver of rule because it would threaten patient safety.** There is no credible reason to remove this protection at this or any other time. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-8(b)(1)
For temporary structures, waive the requirement of emergency power lighting in accordance with specified standards, and instead permit such a structure to have an emergency power system with one branch serving all essential loads.	The "physical plant and the overall hospital environment shall be developed and maintained in such a manner that the safety and well-being of patients are assured as follows: … There shall be emergency power and lighting in accordance with National Fire Protection Association (NFPA) 99. [A1120]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) Requirements of 410 IAC 15-1.5-8(b)(3) are waived for approved mobile and temporary structures on or adjacent to hospital premises.	410 IAC 15-1.5-8(b)(3)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Waive certain physical plant and environmental inspection, maintenance, and repair requirements.	The "physical plant and the overall hospital environment shall be developed and maintained in such a manner that the safety and well-being of patients are assured as follows: … Provision shall be made for the periodic inspection, preventive maintenance, and repair of the physical plant and equipment by qualified personnel…." [A1124] ISDH Guidance to Surveyors adds: "Determine that there is a documented maintenance schedule of appropriate frequency, usually at least annually, and within the manufacturer's recommended maintenance schedule."	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-8(b)(5)(A)
Waive the creation and review of operational and maintenance control records.	The "physical plant and the overall hospital environment shall be developed and maintained in such a manner that the safety and well-being of patients are assured as follows: … Operational and maintenance control records shall be established and analyzed periodically." [A1125]	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-8(b)(5)(B)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Waive compliance with the 2001 edition of the national "Guideline for Construction and Equipment of Hospital and Medical Facilities" for "temporary changes of use or surge facilities."	"[N]ew construction, renovations, and additions" shall comply with the "2001 edition of the national 'Guideline for Construction and Equipment of Hospital and Medical Facilities'." [A1128]	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration.	410 IAC 15-1.5-8(c)(1)
For any renovation or replacement work, waive compliance with the national "Guideline" and relevant parts of the National Fire Protection Association guidance.	"[R]enovation or replacement work [that] is done within an existing facility . . . shall comply, insofar as practical, with applicable sections of the Guidelines and for certification with appropriate parts of National Fire Protection Association (NFPA) 101 (2000 Edition)." [A1134]	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration.	410 IAC 15-1.5-8(c)(3)
Waive site survey and recommendations requirements for temporary structures.	"In new construction, renovations, and additions … Proposed sites shall be located away from detrimental nuisances, well drained, and not subject to flooding. A site survey and recommendations shall be obtained from the department prior to site development." [A1136]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) To the extent applicable, the requirements of 410 IAC 15-1.5-8(c)(1) are waived for temporary structures on or adjacent to hospital premises.	410 IAC 15-1.5-8(c)(4)
Waive requirement to submit license applications for "temporary surge capacity."	"In new construction, renovations, and additions … [A] licensure application shall be submitted to the division on the form approved and provided by the department." [A1152]	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration.	410 IAC 15-1.5-8(c)(10)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Waive requirement to submit state building commissioner documentation with license applications for "temporary surge capacity."	"In new construction, renovations, and additions … Documentation from the state building commissioner that the hospital is in compliance with the fire safety rules of the fire prevention and building safety commission shall be furnished to the division with the licensure application." [A1154]	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration.	410 IAC 15-1.5-8(c)(11)
Waive compliance with the national "Guideline" for construction renovation, and additions for all outpatient facilities, rehabilitation facilities, psychiatric facilities, and mobile, transportable, and relocatable units	"In new construction, renovations, and additions … Outpatient facilities, rehabilitation facilities, psychiatric facilities, and mobile, transportable, and relocatable units that are included under the hospital license may comply with appropriate sections of the Guidelines." [A1158]	**ISDH partially waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) To the extent applicable, the requirements of 410 IAC 15-1.5-8(c)(13) are waived for temporary structures on or adjacent to hospital premises. Waiver of Compliance with the Guideline for renovation is dealt with in a separate item.	410 IAC 15-1.5-8(c)(13)
Waive the requirement that hospital equipment "shall be in good working order and regularly serviced and maintained."	"[T]to assure the safe, effective, and timely provision of the available services to patients … All equipment shall be in good working order and regularly serviced and maintained." ISDH Guidance to Surveyors adds: "Determine the schedule for maintenance and service of various types of equipment and verify compliance with hospital policy and manufacturers recommendations." [A1160]	**ISDH denies waiver of this rule because of patient safety concerns.** No hospital has demonstrated a need for such a broad waiver, which would mean none of a hospital's equipment must "be in good working order." To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-8(d)(1)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
For "non-high-risk" equipment, waive requirement of maintaining a documented maintenance schedule of appropriate frequency and in line with manufacturer's recommended schedule.	"[T]to assure the safe, effective, and timely provision of the available services to patients … All mechanical equipment (pneumatic, electric, or other) shall be on a documented maintenance schedule of appropriate frequency and with the manufacturer's recommended maintenance schedule." [A1162]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) All mechanical equipment (pneumatic, electric, or other) shall be maintained as necessary and with appropriate frequency to ensure provision of services to patients.	410 IAC 15-1.5-8(d)(2)(A)
For "non-high-risk" equipment, waive requirement for keeping records of equipment maintenance, breakdowns, and repairs.	"[T]to assure the safe, effective, and timely provision of the available services to patients … Appropriate records shall be kept pertaining to equipment maintenance, repairs, and current leakage checks." [A1166] ISDH Guidance to Surveyors adds: "Determine from a record check that the hospital required maintenance activities are being done."	**ISDH denies waiver of this rule because waiver is unnecessary and/or premature.** Even if patient loads grow very high, facility maintenance personnel should remain able to keep records for maintenance, repairs, and other necessary work with equipment. If a specific need arises at a later time, a focused waiver request may be submitted and ISDH will consider it quickly. To the extent this request seeks relief from language in the ISDH Guidance to Surveyors, a waiver is neither necessary nor available because the Guidance is not a statute or rule.	410 IAC 15-1.5-8(d)(2)(C)
Waive annual inspection, testing, and calibrating requirements for services using ionizing radiation.	For "services that use ionizing radiation, … Equipment shall be inspected, tested, and calibrated at least annually by qualified personnel with appropriate documentation reasonably available." [A1226]	**ISDH waives this rule**, conditioned as follows: (A) Hospital must have (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration. (B) If the annual inspection, testing, and/or calibration date falls during the declared emergency period, the inspection, testing and/or calibration must be performed within ninety (90) days after the emergency ends.	410 IAC 15-1.5-9(b)(2)

Blanket Waivers for Hospitals – March 27, 2020 (cont.)

Proposal	What the Current Provision Does	Waiver Decision / Explanation	Indiana/Federal Code, Rule, Regulation
Waive requirement to have policy for transfers of patients.	"Written policies and procedures governing medical care provided in the emergency service . . . shall include, but not be limited to, the following: (A) Provision for the care of the disturbed patient. (B) Provision for immediate assessment of all patients presenting for emergency and obstetrical care. (C) Provision for transfer of patients when care is needed which cannot be provided." [A1510]	**ISDH denies the requested waiver as unnecessary.** This rule requires only that the facility have appropriate policies for the defined areas, and those policies should already exist. The hospital may amend any emergency service policies due to the public health emergency, but no waiver is required for such action.	410 IAC 15-1.6-2(b)(2)
Waive requirements for use of hospital space for inpatient rehabilitation services to align with CMS 1135 waiver of "distinct part" requirement.	If the [therapy] services provided [by the hospital] include an inpatient rehabilitation unit or the hospital itself is exempt from the Medicare prospective payment system, it shall comply with" cited parts of 42 CFR. [A1912]	**ISDH waives this rule**, conditioned as follows: Rule is waived for any hospital that has (1) declared a COVID-19 facility emergency and (2) notified ISDH of the declaration.	410 IAC 15-1.6-6(e)