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MEMO

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TO: Selected Chief Executive Officers
Governmental Relations Executives
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Chief Nursing Officers
Compliance Directors
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FROM: Sarah Willson, Vice President of Clinical and Regulatory Affairs

SUBJECT: Regulatory Update: Hospital Waivers and Variances

Hospitals and critical access hospitals have been utilizing various [waivers](#) issued by the Centers for Medicare & Medicaid Services and variances issued by various state agencies to meet care demands resulting from the COVID-19 pandemic. The Missouri Hospital Association has a list of approved waivers [posted](#) on the website for use stemming from continued authorization of the COVID-19 Public Health Emergency. While hospitals and CAHs continue to utilize various flexibilities as authorized by CMS and the Department for Health and Senior Services, children's hospitals and hospitals caring for pediatric patients are facing a new threat with the onset of an early and aggressive respiratory season especially related to respiratory syncytial virus. The requests for transport to these specialized care providers is rising creating the need for continued and new flexibilities to care for children. The department recently [issued](#) a related Health Advisory.

To help hospitals understand how waivers from CMS and variances from DHSS are issued, MHA has put together a [guidance document](#). The [current](#) CMS waivers issued under the COVID-19 PHE still are in effect and not limited to use only with COVID-19 patients. The variances authorized by the department, however, lapsed with the end of the state declaration requiring hospitals to individually request needed variances. The department allowed hospitals to request one of the following six variances at the end of the state declaration:

- 19 CSR 30-20.050(2)(C) shall be waived allowing a hospital to adopt a policy restricting the presence of visitors. This no longer is possible unless a state declaration were to occur, and the Essential Caregiver Program requirements were implemented.

- 19 CSR 30-20.092 shall be waived to the extent necessary for hospitals to deviate from the diversion plans to more efficiently move patients to alternate sites of care, including those outside the boundaries of the hospital's written plan.
- 19 CSR 30-20.015(2) shall be waived, to the extent necessary, for hospitals to establish alternative screening sites and sites of care away from licensed premises and place inpatients in non-licensed patient care areas, as deemed necessary, so long as the applicable standard of care is met. Such remote sites shall be considered part of the hospital's licensed premises for treatment and billing purposes. DHSS shall provide how hospitals will be asked to document the existence and location of alternate screening or treatment sites.
- 19 CSR 30-20.015 (5) shall be waived, to the extent necessary, for licensed hospitals to submit timely application for re-licensure to DHSS. DHSS shall grant an automatic six-month extension of any hospital license scheduled to expire during the declared emergency period.
- 19 CSR 30-20.030 shall be waived to the extent necessary, related to the applicable construction standards to all alternative screening and treatment sites identified by the hospital. DHSS shall provide means by which hospitals will be asked to document the existence and location of alternate screening or treatment sites.
- 19 CSR 30-20.050 shall be waived to the extent necessary, to create capacity to treat patients with higher acuities relating to the operation of long-term care units within a hospital: including the use of those beds for care of acute inpatients; the staffing ratio requirements in a designated long-term care unit and resident notification, transfer/discharge requirements.

Those variance requests had to be resubmitted every 90 days within specific parameters. The variances are time and situation limited. The type of variance that can be requested is not limited to the six variances referenced above, rather these are examples allowed under COVID-19. A hospital may submit a request for a variance to DHSS for an array of regulations under hospital licensure found in [19 CSR 30-20](#). Children's Hospitals who had not previously requested variances may need to do so given the surge in RSV patients. Acute hospitals with licensed pediatric beds may want to consider getting variances in place in the event they need to expand their current pediatric capacity or alter the location of beds to an area of the hospital not licensed to care for pediatric patients. The ability to transfer to a limited number of Children's Hospitals may become increasingly difficult depending on infection rates of RSV, COVID-19, Influenza and other factors. The MHA [guidance document](#) informs hospitals on what to include in such requests and how to submit variances for consideration.

Please reach out to me at swillson@mhanet.com or 573-897-3700, ext. 1304, with questions.

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