



1. EMERGENCY DECLARATIONS, STAY AT HOME ORDERS

- On January 31, 2020, Department of Health and Human Services Secretary Alex Azar [declared a nationwide public health emergency](#).
- On March 13, 2020, President Trump declared a state of emergency under [the National Emergencies Act](#) and [the Stafford Act](#).
- On March 13, Gov. Parson issued an executive order [declaring](#) a State of Emergency in Missouri to protect public health. MHA issued a [statement](#) in support of the governor’s declaration.
- On March 26, President Trump [approved](#) a major disaster declaration for Missouri.
- On April 3, Gov. Parson issued a statewide “[Stay Home Missouri](#)” order imposing social distancing, which he later [extended](#) to May 3.
- On April 24, Gov. Parson issued an [executive order](#) extending the state of emergency through June 15.

2. REGULATORY WAIVERS

- **Federal Waivers**
 - HHS Secretary Azar issued [blanket waivers and modifications](#) of certain regulatory requirements.
 - CMS issued [blanket waivers for health care providers](#).
 - CMS issued blanket waivers of certain [Stark Law](#) requirements.
 - These Section 1135 waivers address the majority of requests made by MHA on March 16. They are automatic – hospitals do not need to ask permission or provide notice to use them. The federal blanket waivers include, but are not limited to, relief from the following restrictions:
 - Critical access hospital 25-bed limit and 96-hour length of stay limit
 - 3-day prior hospitalization for coverage of SNF
 - Certain Conditions of Participation for hospitals
 - Requirements that physicians or other professionals hold licenses in the state where they provide care
 - EMTALA sanctions regarding medical screening exam and transfers
 - Certain HIPAA provisions
 - Timetables and deadlines for performance of activities necessary to be eligible for Medicare and Medicaid and CHIP
 - These waivers apply only to federal law and do not change state law. MHA has worked with various state agencies to obtain waivers of state laws and regulations as noted in the following section.
 - The Joint Commission [suspended all regular surveying](#) beginning Monday, March 16. In some cases, a small number of surveys may continue, such as high-risk situations.
 - On March 25, CMS [approved](#) waiver requests submitted by MO HealthNet, authorizing suspension of certain requirements under Medicaid.
 - CMS [issued](#) new and expanded flexibilities for Rural Health Clinics and Federally Qualified Health Centers.
 - CMS [clarified](#) that suspension of the requirement for a 3-day hospitalization prior to transfer applied to swing beds



- **State Waivers**
 - The Department of Health and Senior Services has [waived](#) numerous regulatory requirements to assist hospitals in addressing the anticipated surge in patients due to the COVID-19 virus. These include:
 - Abatement of survey activity
 - Relief from physical plant requirements for alternate care sites
 - The ability of pharmacies to dispense emergency supplies of controlled substances
 - Relief from geographic limits and certain aspects of physician supervision and chart review for APRNs
 - The Department of Commerce and Insurance issued a [waiver](#) “strongly encouraging” insurers of all types to not cancel or fail to renew policies in effect on March 13.
 - The Missouri Board of Pharmacy issued [emergency rule changes](#) to temporarily waive or suspend the operation of statutory rules or administrative requirements to best serve public health and safety.
 - The Missouri State Board of Registration for the Healing Arts issued [waivers](#) of various licensing requirements, including waivers regarding collaborative practice and nursing licensure requirements.
 - MO HealthNet [relaxed](#) home health and personal care assistance requirements.
 - MO HealthNet [extended](#) the time for nursing facilities to submit cost reports.
 - MO HealthNet has relaxed numerous additional program standards in the form of [Provider Hot Tips](#).

MHA has compiled a [Waiver Tracker](#) of all federal and state waivers issued to date.

- **Additional Waiver Activity**
 - MHA developed [guidance](#) for hospitals wishing to seek individual waivers from CMS.
- **AHA has supported MHA and other state hospital associations in seeking additional waivers**
 - AHA [sent a letter on March 16](#) urging HHS to grant additional waivers for or leniency for federal audits, medical review audits, administrative timeframes, and medical record timing requirements specific areas.
 - [AHA Letter](#) requesting suspension of Stark and the Anti-Kickback Statute.
 - [AHA Letter](#) to Attorney General Barr requesting DOJ exercise prosecutorial discretion and decline to pursue or prosecute alleged violations of Stark and AKS.
 - [AHA Letter](#) requesting direct Federal funding for hospitals.

3. ADDITIONAL FEDERAL RELIEF

- **President Trump Signs CARES Act**
 - On March 27, 2020, President Trump signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), allocating more than \$2 trillion to aid individuals and businesses affected by the pandemic. Summaries of the [appropriations](#) and [statutory](#) components of the full bill are available. MHA released an [Issue Brief](#) summarizing the law, and the American Hospital Association published a [summary](#) focusing on its more significant health-related aspects.
 - CMS [expanded](#) the Medicare Accelerated and Advance Payment Program to advance amounts up to a hospital's Medicare payments during the previous six months and continuation of Medicare claims payments for 120 days. Repayment is expected after that time, but members of Missouri's congressional delegation are [urging](#) leaders to forgive repayments for hospitals demonstrating financial hardship.
 - MHA shared [guidance](#) developed by Spencer Fane on the requirements associated with the Emergency Fund Payments provided for by the CARES Act.
- **Employee Protections Under the Families First Coronavirus Response Act (FFCRA)**
 - The [FFCRA](#) requires certain employers to provide paid leave to employees impacted by the coronavirus and new refundable tax credits to employers.
 - The Department of Labor issued [FAQs](#) providing interpretive guidance of the law.
 - DOL subsequently issued a [Temporary Rule](#) implementing the FFCRA.
- **HHS Office of the Assistant Secretary for Preparedness and Response**
 - ASPR provided [funding](#) directly to state hospital associations to support COVID-19 response, allocating just over \$1 million to MHA for distribution among its members. Hospitals must sign a Memorandum of Understanding by April 28 to receive the funds.
- **USDA Loan Relief**
 - The USDA [announced](#) it was temporarily deferring payments under the USDA Community Facilities Direct Loan Program.
- **Cost Report Deadlines**
 - WPS Government Health Administrators, Missouri's Medicare Administrative Contractor, [extended](#) cost report deadlines.



4. FEDERAL GUIDANCE/REQUIREMENTS

- **Centers for Medicare & Medicaid Services**
 - The Centers for Medicare & Medicaid Services [provided additional information](#) related to billing services under various emergency waivers.
 - CMS released [guidance](#) on flexibilities to help hospitals combat COVID-19.
 - CMS released COVID-19 [Long-Term Care Facility Guidance](#).
 - CMS issued an [Interim Final Rule](#) on COVID-19 response, summarized in an MHA [Issue Brief](#).
- **The Substance Abuse and Mental Health Services Administration**
 - SAMHSA [published emergency response and Part 2 guidance](#) and established a [webpage](#) addressing additional concerns, including considerations for the care and treatment of mental health and substance use disorders during the COVID-19 crisis.
- **Office of Civil Rights guidance on HIPAA**
 - OCR provided [additional information](#) on the limited waiver on HIPAA sanctions and penalties.
- **Occupational Safety and Health Administration**
 - OSHA issued [guidance](#) on preparing workplaces for COVID-19.
 - OSHA issued enforcement [guidance](#) during the COVID-19 pandemic.
- **COVID-19 Insurance Coverage**
 - Federal agencies issued [FAQ](#) guidance on insurance coverage for COVID-19 testing and treatment.
- **Equal Employment Opportunity Commission**
 - The EEOC issued [What You Should Know About the ADA, the Rehabilitation Act, and COVID-19](#).
 - The agency also release [guidance](#) reminding providers that civil rights laws and requirements are not set aside during the emergency.

5. STATE LAWS/GUIDANCE

- **Department of Health and Senior Services**
 - On January 22, DHSS [requested](#) health care providers immediately report any patient meeting the criteria for COVID-19 infection.
 - DHSS filed an [emergency rule](#) effective February 10 adding COVID-19 to the list of immediately reportable communicable diseases.
 - DHSS [mandated](#) all medical facilities and laboratories report positive and negative test results for COVID-19. The department sent a technical assistance [memo](#) to hospitals on March 24 explaining actions to take resulting from the order and an updated [memo](#) on April 6 for reporting COVID-19 cases.
 - On April 4, DHSS [ordered](#) COVID-19 deaths be reported in 24 hours.
 - DHSS issued [guidance](#) for sterilization and re-use of PPE.
 - DHSS issued [guidance](#) for discharge planning for patients transferred to post acute care.
 - DHSS issued PASRR [guidance](#).
 - The Board of Pharmacy issued [guidance](#) on pharmacists ordering and administering COVID-19 testing.

6. TELEHEALTH

- Please see MHA's [Telehealth FAQs](#) for current telehealth guidance.
- CMS issued [FAQs on Telehealth and HIPAA](#).

7. MEDICAL SURGE: SUPPLIES

- President Trump issued an [Executive Order](#) on hoarding of supplies and drugs involved in the COVID-19 response. On March 26, HHS followed up with a [news release](#) and [notice](#) listing affected items.
- Missouri Attorney General Eric Schmitt encourages hospitals to [file complaints](#) related to price gouging of supplies.
- **Personal protective equipment (PPE) from strategic national stockpile**
 - DHSS has issued a [memo on prioritization of PPE](#) coming out of the strategic national stockpile. Those providers treating confirmed or presumptive COVID patients are in the top tier.
 - On April 8, DHSS updated their PPE ordering process for health care providers and implemented new [state guidance](#) for Missouri's PPE reserve, which includes an electronic request process.. All resource requests must be submitted through the organization's respective [health care coalition](#). The process is outlined on the DHSS COVID-19 [web page](#).



- **State Facilitated Marketplace through Google**
 - On April 20, the State of Missouri announced the launch of a new platform, the Missouri COVID Supply Solution, powered by Google. This application is designed to match health care providers with suppliers of personal protective equipment and other medical supplies in response to COVID-19. MHA reviewed and offered feedback to optimize the platform for Missouri hospitals. To use the platform, visit [Missouri COVID Supply Solution](#), and create a password to log in. Users are encouraged to utilize Google Chrome rather than Internet Explorer to access the platform. For state officials to understand state demand for PPE supplies, please help by providing daily inventory amounts within the solution. We will be cultivating vendors and anticipate they will be joining daily. It is our hope to provide you with an opportunity to work with reliable vendors to purchase quality products to help your organization respond to COVID-19.
- **PPE Decontamination**
 - On April 22, the state announced deployment of the [Battelle Critical Care Decontamination System](#)TM to address PPE shortages.
- **Federal guidance on PPE usage**
 - OSHA has [issued waivers](#) for N95 fit tests and expiration dates.
 - FDA has provided [recommendations](#) and [FAQs](#) related to PPE shortage usage of expired gowns and masks.
 - Harbor Freight is [donating](#) N95 masks, face shields and nitrile gloves to hospitals. Email PPE needs to hospitalhelp@harborfreight.com.
 - MHA disseminated an Advisory Board [cheat sheet](#) for optimizing PPE.

8. MEDICAL SURGE: STAFFING

- DHSS issued [Temporary Emergency License Provider Guidance](#) and [Licensing Rules](#) to ensure child care needs are met for critical workers.
- MHA and the Missouri Organization of Nurse Leaders provided a webinar on Emergency Staffing Considerations. [Recording](#) | [PowerPoint](#)
- Employers can immediately provide tax-free qualified disaster payments to employees in connection with COVID-19. FAQs are [available](#).
- If hospitals need help with temporary staffing during the COVID-19 outbreak, the [APS Staffing Program](#) has two crisis response agencies in their program.
- On March 16, the Centers for Disease Control issued interim guidance: [Criteria for Return to Work for Health Care Personnel with Confirmed or Suspected COVID-19](#).
- On April 10, the CDC issued an additional guidance document: [Implementing Safety Practices for Critical Infrastructure Workers Who May have Had Exposure to COVID-19](#).
- MHA provided [guidance](#) on Screening Hospital Staff, Patients and Visitors.
- MHA provided [guidance](#) on expedited pathways to licensure for health care workers.
- HHS published the [COVID-19 Workforce Virtual Toolkit](#) for managing the health care workforce.

9. MEDICAL SURGE: PLANNING FRAMEWORK AND CRISIS STANDARDS OF CARE

- MHA issued [guidance](#) for surge planning and implementing crisis standards of care.

10. ELECTIVE SURGERIES AND PROCEDURES

- **CMS recommendation to limit non-essential adult elective surgery and procedures**
 - On March 18, CMS [announced](#) recommendations that all elective surgeries and nonessential medical, surgical and dental procedures be [delayed](#) during the COVID-19 outbreak. The CMS recommendations include suggested factors and framework for consideration.
 - On April 7, CMS [updated](#) its recommendations for non-emergent and elective procedures.
 - MHA issued [guidance](#) on March 18 to align with CMS, and providing additional definitions and considerations.
- **Guidance for reopening and resuming operations**
 - On April 16, the Trump Administration issued guidelines for [Opening Up American Again](#).
 - CMS issued [recommendations](#) for health care facilities to begin providing non-emergency non-COVID-19 care.
 - The American College of Surgeons, American Society of Anesthesiologists, American Operating Room Nurses and American Hospital Association released a [roadmap](#) for resuming elective surgeries.
- MHA released [Guidance for Resuming Elective Procedures](#) for its members.



11. REOPENING AND RECOVERY

- On April 27, Gov. Parson announced the first phase of his [Show Me Strong Recovery Plan](#) allowing economic and social activities to reopen May 4.
- DHSS issued a [public health order](#) implementing social distancing requirements through May 31.

12. CONTRACT CONSIDERATIONS

- As Missouri's response to COVID-19 intensifies, contractual obligations will need to be reviewed for cancellation or amendment.
- Entities should look to the force majeure provision of a contract to determine next steps. When reviewing a force majeure provision, considerations should include:
 - Review of the events or circumstances specified in the itemized list within the force majeure provision.
 - Determination of what listed event or circumstance is closest to the occurrence at issue, both in type and degree of realization.
 - Evaluate what may still happen but has not yet come to fruition.
 - Look for language requiring timely notice when seeking to invoke a force majeure provision.
- Many courts narrowly construe force majeure provisions and often do not find fear alone to be sufficient justification to invoke a force majeure provision.

13. STATE COURTS

- **Missouri Courts updates**
 - The Missouri Judiciary [established a dedicated webpage](#) for Orders and notices related to the pandemic from every Missouri state court. The website will be regularly updated.
- **Court Closures and Emergency Modifications to Operations**
 - On March 16, 2020, the Missouri Supreme Court [ordered](#) suspension of all in-person proceedings in all appellate and circuit courts, with certain exceptions. On March 22, 2020, the Court [ordered an expansion](#) of the suspension to include grand jury proceedings and extended the suspension through April 17, 2020.