



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

March 19, 2020

DHDTTC DAL 20-09
RE: Emergency Approvals for
COVID-19 (**REVISED**)

Dear Hospital CEOs and Diagnostic & Treatment Center (D&TCs) Administrators:

This guidance supersedes guidance dated March 18, 2020 intended for healthcare providers seeking emergency approval from the New York State Department of Health (the Department) for additional capacity or alternative sites for testing, triage, screening or treatment related to COVID-19 surge response. Construction or modification requests related to the use of alternative facilities or development of additional capacity are covered under State regulations at 10 NYCRR Section 401.3 and Parts 709 and 710. The Department will exercise its authority under Executive Order 202.1 to issue emergency approvals for these requests. Examples of the types of alternative facilities or additional capacity may include but are not limited to:

- Installation of tents, trailers or other temporary spaces;
- Repurposing of existing space within a hospital or on the hospital campus;
- Use of alternative sites outside a hospital, hospital campus or other facility;
- Requests to exceed bed capacity or modify bed types.

Providers seeking to create additional capacity for COVID-19 response are not required to submit a Certificate of Need (CON) application. Those that have already submitted a CON for the project should include the CON number. Requests can be submitted in writing to the appropriate DOH Regional office. The notice must include the following information, as appropriate depending on the proposed use of the space:

- Description of the project including the areas being constructed, modified or repurposed, including PFI and operating certificate number(s) as applicable.
- Anticipated purpose, capacity and type of space; e.g., screening and testing, treatment rooms, inpatient space, triage areas, airborne isolation rooms/areas;
- Assurances that the space and plan have been reviewed and approved by hospital and infection control leadership, and that the project will comply with the most current State and federal guidance related to treatment of patients with known or suspected COVID-19.

Upon notification to the appropriate DOH Regional Office Department, providers are authorized to immediately move forward with the project. These Emergency approvals will be time limited based on the purpose of and need for the proposed project. A Certificate of Need (CON) will be required for projects requesting permanent approval. Note that the management of patients

presenting to hospital emergency departments (ED) must comply with any applicable requirements of the Emergency Medical Treatment and Labor Act (EMTALA). CMS is issuing updated guidance on EMTALA requirements as they relate to the COVID-19 response and this guidance will be shared as soon as it is available.

Providers are encouraged to submit requests as soon as they have identified any available options. While this information is not required as part of the notification to the Department, factors that providers should consider when going forward with identifying, modifying or creating additional space or capacity for COVID-19 include:

- Environmental services including provisions for regular and regulated medical waste disposal;
- Any necessary air exchange and HVAC system requirements, depending on the type of clinical services provided;
- An infection control plan including cleaning and disinfection protocols, access to handwashing and appropriate protective equipment (PPE);
- Staffing and training plans;
- Fire protection plan for the identified additional or alternate site proposal; including any required fire and carbon monoxide alarm systems;
- Provisions for patient privacy and confidentiality;
- Securing any required local permits or approvals.

Questions regarding the emergency approval process should be directed to your Regional Office of the Division of Hospitals and Diagnostic and Treatment Centers. A contact list is attached.

Sincerely,

A handwritten signature in black ink that reads "Deirdre Astin". The signature is written in a cursive, flowing style.

Deirdre Astin, Director
Division of Hospitals and Diagnostic &
Treatment Centers