COVID-19 Resources

Updated, April 3, 2020

As a growing number of countries respond to an outbreak of respiratory disease known as coronavirus disease 2019 (COVID-19), healthcare providers are navigating a modern public health crisis. Providers are caring for patients, working with public health officials to contain the epidemic or stem its spread, monitoring the healthcare workforce and surge capacity, and tracking how federal and state regulatory requirements and reimbursement rules are changing in the face of the epidemic.

Hooper, Lundy & Bookman has assembled a task force of attorneys that are advising clients as to the latest regulatory developments and their responses. Our COVID-19 resource page includes federal and select state resources on COVID-19 and will be updated over the course of this crisis to keep you informed of the latest developments.

- Hooper, Lundy & Bookman COVID-19 Health Law Advisories
- Federal Resources
- California Resources
- Colorado Resources
- Massachusetts Resources
- Virginia Resources
- Washington, D.C. Resources
- Resources for Other States (e.g., Florida and Washington)
- National Trade Associations
- Sample Shelter-in-Place Orders and Orders re Elective Procedures

For further information, please contact Mark Reagan, Katrina Pagonis, Scott Kiepen, Andrea Frey, or Jeffrey Lin in our San Francisco office; David Hatch, Alicia Macklin, Nina Adatia Marsden, Bridget Gordon or Charles Oppenheim in our Los Angeles office; David Schumacher, Amy Joseph or Jeremy Sherer in our Boston office; Martin Corry in our Washington, D.C. office; Andrew Struve, Mark Johnson and Matthew Lahana in our San Diego office; or your regular Hooper,
Lundy & Bookman contact.

For media inquiries, please contact Maura Fisher at 202-580-7714.

**HOOPER, LUNDY & BOOKMAN COVID-19 HEALTH LAW ADVISORIES**

- CMS Issues Broad Stark Law Waiver for COVID-19 (4/1/20)
- The CARES Act Amends Part 2 to Align with HIPAA (4/1/20)
- CMS Expands the Accelerated and Advance Payments Program During COVID-19 Pandemic (3/30/20)
- CMS Grants Massachusetts 1135 Waiver Request (3/27/20)
- Newly-Passed Coronavirus Relief Bill Includes Assistance for Many, Including Health Care Providers (3/27/20)
- CMS Grants Colorado 1135 Waiver Request (3/27/20)
- CMS Grants Rhode Island 1135 Waiver Request (3/26/20)
- Practical Tips for Implementing Telehealth During the COVID-19 Pandemic (3/25/20)
- First Reports of Coronavirus Fraud and Abuse Emerging (3/25/20)
- California Department of Public Health Requests 1135 Waiver During COVID-19 Emergency (3/25/20)
- CDPH Suspends Enforcement of Hospital Licensing Requirements (3/20/20)
- Increased Flexibility for Out-of-State Physicians to Assist with COVID-19 Response (3/20/20)
- Section 1135 Waivers Issued Following President’s Emergency Declaration (3/18/20)
- CMS Issues EMTALA Guidance for Hospitalsa cing Influx of Patients with Suspected or Confirmed Novel Coronavirus (COVID-19) (3/13/20)
- Congress Enables HHS to Relax Telehealth Restrictions to Help Fight COVID-19 (3/11/20)

**FEDERAL**

- OCR Notice of Enforcement Discretion under HIPAA to Allow Uses and Disclosures of PHI by Business Associates for Public Health and Health Oversight Activities in Response to COVID-19 (4/2/20).
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- Office for Civil Rights Guidance re Disclosures First Responders and Public Health Authorities (3/24/20).
- Department of Justice Press Releasing Urging Reporting of COVID-19 Fraud (3/20/20).
- President's Proclamation Declaring National Emergency (3/12/20).
- Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020, Pub. L. 116-123 (3/6/20) (Provides $8.3 billion in emergency funding for federal agencies to respond to COVID-19 outbreak and providing waiver authority for Medicare coverage of telehealth services during certain emergencies). See also HLB Alert (3/12/20), which discusses the telehealth waiver authority in the appropriations act.
- President’s Executive Order on Prioritizing and Allocating Health and Medical Resources to Respond to the Spread of Covid-19 (3/18/20).
- COVID-19 FAQs for State Medicaid and Children's Health Insurance Program (CHIP) Agencies (3/18/20)
- Secretary of HHS’s Declaration of Public Emergency (1/31/20).

**CMS:**

**Landing Page**

- CMS COVID-19 Partner Toolkit, including link to CMS Landing Page re Current Emergencies, including COVID-19.

**Waivers**

**Note:** When the President declares a disaster or emergency under the Stafford Act or National Emergencies Act, and the HHS Secretary declares a public health emergency under Section 319 of the Public Health Service Act, the Secretary is authorized to take certain actions in addition to her regular authorities. Pursuant to that authority, CMS has issued blanket waivers, available to all providers, which waive enforcement of various requirements relating to, for example, HIPAA, EMTALA, physician referral, and provider enrollment. In addition, states, hospital associations, and individual providers are requesting waivers on issues not specifically addressed in the blanket waivers. The waivers and corresponding guidance documents must be reviewed carefully to understand their importance and application.

- Graphic Overview of Flexibilities.
- COVID-19 Provider Burden Relief FAQs.
- COVID-19 Medicare Provider Enrollment Relief FAQs.
- Blanket Waivers of Section 1877(g) of the Social Security Act (Stark Law).
- COVID-19 Emergency Declaration Blanket Waivers for Health Care Providers (3/30/20); see also Coronavirus Waivers and Flexibilities Page for Provider-Specific Fact Sheets.
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- Interim Final Rule re Flexibilities to Respond to COVID-19 (3/30/20).
- Section 1135 Waiver COVID-19 State/Territory Request Template (3/20/20).
- CMS 1135 Waiver Approvals (updated as approvals are issued).
- MLN Matters Number SE20011: Medicare FFS Response to the Public Health Emergency on the Coronavirus (3/16/20).
- Department of Health and Human Services Limited Waiver of HIPAA Sanctions and Penalties During a Nationwide Public Health Emergency (3/16/20).
- CMS Findings Concerning Sec. 1812(f) of Social Security Act in Response to the Effects of the COVID-19 Outbreak (3/13/20)
- Waiver or Modification of Requirements Under Section 1135 of the Social Security Act (3/15/20, backdated to 3/13/20).

Telehealth

- Long-Term Care Nursing Homes Telehealth and Telemedicine Tool Kit (3/27/20).
- CMS General Provider Telehealth and Telemedicine Tool Kit (3/20/20).
- ESRD Provider Telehealth and Telemedicine Tool Kit (3/20/20).
- Office for Civil Rights Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency, including FAQ.
- Medicaid State Plan Fee-for-Service Payments for Services Delivered Via Telehealth (3/17/20).
- Medicare Telemedicine Health Care Fact Sheet (3/17/20).
- OIG Policy Statement and Fact Sheet Regarding Practitioners That Reduce or Waive Amounts Owed by Federal Health Care Program Beneficiaries for Telehealth Services During the 2019 Novel Coronavirus (COVID-19) Outbreak (3/17/20).
- DEA Guidance re Telemedicine

Notable Guidance

- EMTALA: QSO-20-15 Hospital/CAH/EMTALA (Revised), EMTALA Requirements and Implications Related to COVID-19 (Revised) (3/30/20).
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--See also MAC Payment Request Forms: CGS Administrators, LLC; First Coast Service Options; Novitas Solutions; Noridian Healthcare Solutions; Palmetto GBA; Wisconsin Physicians Service

- CMS Memo re Exceptions and Extensions for Quality Reporting Requirements (3/27/20).
- COVID-19 Medicare Provider Enrollment Relief FAQs.
- CMS Announces Relief for Clinicians, Providers, Hospitals and Facilities Participating in Quality Reporting Programs in Response to COVID-19 (3/22/20).
- FAQs on Catastrophic Plan Coverage (3/18/20).
- CMS Medicare Administrative Contractor (MAC) COVID-19 Test Pricing (3/12/20).
  --See also HLB Alert (3/9/20), which discusses QSO-20-14.

  --See also HLB Alert (3/9/20), which discusses QSO-20-13.
- QSO-20-12-All, Suspension of Survey Activities (3/4/20)
  --See also HLB Alert (3/9/20), which discusses QSO-20-12.

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  --See also HLB Alert (3/9/20), which discusses QSO-20-12.
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Laboratories (2/6/20).
- CMS Fact Sheet re Coverage and Payment Related to COVID-19 – Medicare (3/5/20)
- CMS Fact Sheet re Coverage and Payment Related to COVID-19 – Medicaid and CHIP (3/5/20)

CDC
- CDC Coronavirus 2019 Landing Page
- CDC ICD-10-CM Official Coding Guidelines (Effective 2/20/20)

CALIFORNIA

California Department of Public Health
- California Department of Public Health Landing Page for Guidance Documents re COVID-19

Including CDPH All Facilities Letters:
- AFL 20-34 Suspension of Regulatory Enforcement of Specified ADHC Requirements (4/2/20).
- AFL 20-33 Interim Guidance for Transfer of Residents with Suspected or Confirmed Coronavirus Disease (COVID-19).
- AFL 20-32: Suspension of Regulatory Enforcement of Specified Skilled Nursing Facility Requirements.
- AFL 20-30: Suspension of Regulatory Enforcement of Specified Primary Care Clinic and Mobile Health Care Unit Requirements (3/26/20).
- AFL 20-26: Suspension of Regulatory Enforcement of Hospital Requirements (3/20/20).
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  --See also HLB Alert (3/9/20), which discusses AFL 20-18.
  --See also HLB Alert (3/9/20), which discusses AFL 20-17.

Other

- California Governor’s Executive Order re Expansion of Healthcare Workforce and Waivers of Professional Staffing, Licensing, and Credentialing Requirements (3/30/20).
- CMS approval of California Hospitals’ 1135 Waiver (3/26/20)
- California Emergency Medical Service Authority COVID-19 Landing Page, including Policy to Implement the Emergency Proclamation of the Governor on the Authorization of Out of State Medical Personnel (3/17/20)
- California Employment Development Department COVID-19 Landing Page
- Waivers of California Pharmacy Law.
- California Governor’s Executive Order Expanding Capacity to Combat COVID-19 in Health Care Facilities (3/21/20).
- Department of Managed Health Care All Plan Letter 20-009 – Reimbursement for Telehealth Services (3/18/20).
- California Governor’s Executive Order Further Enhancing State and Local Government’s Ability to Respond to COVID-19 Pandemic (3/12/20).
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- California Governor’s Proclamation of State of Emergency (3/4/20)
  --See also HLB Alert (3/9/20), which discusses those portions of the Proclamation concerning facility licensing waivers and the deployment of out-of-state health workers.
- Department of Health Care Services Landing Page re COVID-19

Including:

- Medi-Cal Payment for Telehealth and Virtual/Telephonic Communications Relative to COVID-19 (3/24/20).
- CMS Approval of DHCS 1135 Waiver Request (3/22/20).
- DHCS Memo - Medi-Cal Managed Care Health Plans: Updated COVID – 19 Screening and Testing (3/16/20).
- Medi-Cal Payment for Medical Services Related to COVID-19 (3/16/20).
- DHCS Request for Section 1135 Waiver Flexibilities Related to COVID 19 Emergency (3/16/20).

Colorado

- Colorado COVID-19 Landing Page
- CMS Approval of Colorado 1135 Waiver Request (3/26/20).
- COVID-19 Information for Health First Colorado and CHP+ Providers and Case Managers

Massachusetts

- State of Massachusetts Landing Page re Coronavirus
- 2020 MassHealth Provider Bulletins Landing Page

Including:

- Declaration of a State of Emergency to Respond to COVID-19 (3/10/20)
VIRGINIA

■ Virginia Department of Health COVID-19 Landing Page
■ CMS Approval of Virginia 1135 Waiver Request (3/23/20).

WASHINGTON, D.C.

■ Washington, D.C. COVID-19 Landing Page
■ Washington, D.C. Health Notices (updated periodically)
■ Washington, D.C. Executive Order re Preparations for the Coronavirus (2/28/20)

OTHER STATES

Florida

■ Florida Department of Health COVID-19 Landing Page
■ CMS Approval of Florida 1135 Waiver Request (3/23/20).
■ Florida Executive Order 20-52 Declaring a State of Emergency (3/9/20)

Washington

■ Washington COVID-19 Landing Page
■ Proclamation by the Governor (Amending 20-05) (3/11/20).
■ Proclamation by the Governor (Declaring State of Emergency) (2/29/20).

Including:

■ Proclamation by the Governor (Amending 20-05) (3/11/20)
■ Washington Department of Public Health Recommendations during Long-Term Care Facilities for COVID-19 Outbreak (3/3/20)
■ Proclamation by the Governor (Declaring State of Emergency) (2/29/20)
NATIONAL TRADE ASSOCIATIONS

Below, please find links to COVID-19 guidance issued by various national trade associations. While this guidance is not government-issued and therefore is not authoritative, providers may find this information instructive.

- Federation of State Medical Boards COVID-19 Landing Page, including List of Links to State Licensing Waivers
- American Hospital Association COVID-19 Landing Page
- Federation of American Hospitals COVID-19 Landing Page
- American Health Care Association / National Center for Assisted Living COVID-19 Landing Page

Including:

- Taking Reasonable Efforts to Prevent COVID-19 From Entering Your Skilled Nursing Center (3/9/20)
- Taking Reasonable Efforts to Prevent COVID-19 From Entering Your Assisted Living Community (3/9/20)

SAMPLE SHELTER-IN-PLACE ORDERS AND ORDERS RE ELECTIVE PROCEDURES

States, counties, and municipalities have begun to issue Public Health Orders requiring residents to shelter in place and, in some cases, addressing elective medical, surgical, and dental procedures. In addition, state and national associations have recommended or urged physicians, health systems, hospitals, dentists, and other providers to voluntarily minimize, postpone, or cancel elective and non-urgent medical, surgical, and dental procedures based on a case-by-case evaluation. Sample shelter-in-place orders, sample orders addressing elective procedures, and sample national association statements and guidance on elective procedures are provided below.

- Sample Shelter-in-Place Orders:
  - State of California
    - Alameda County (CA)
    - Contra Costa County (CA)
    - Humboldt County (CA), see also FAQ
    - Los Angeles County (CA)
    - Marin County (CA)
    - Monterey County (CA), see also FAQ
    - Sacramento County (CA)
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- San Benito County (CA)
- San Francisco County (CA)
- San Mateo County (CA)
- Santa Clara County (CA)
- District of Columbia
- State of Maryland
- State of Virginia

Sample Orders Addressing Elective Procedures:
- City of Beverly Hills (CA)
- Massachusetts ASC Order
- Massachusetts Elective Procedure Guidance

Sample Association Statements and Guidance on Elective Procedures:
- Hospital Associations’ 3/15/20 Letter to Surgeon General