

**STATEMENT OF COMPLIANCE WITH PUBLIC HEALTH ORDER
DATED APRIL 30, 2020 MODIFYING TEMPORARY RESTRICTIONS ON NON-ESSENTIAL
HEALTH CARE SERVICES, PROCEDURES, AND SURGERIES BY [INSERT PROVIDER]**

1. On April 30, 2020, the New Mexico Department of Health adopted that certain public health order (the “Order”) titled:

“Public Health Emergency Order Modifying Temporary Restrictions on Non-Essential Health Care Services, Procedures, and Surgeries”

2. The Order mandates health care providers or facilities subject to the Order “must affirm past compliance with all current Public Health Emergency Orders and demonstrate the facility can continue to comply with Department of Health regulations and Public Health Emergency Order.” *See* Order, p. 3. The intent of the Order is to ration and preserve the state’s supply of personal protective equipment in response to the public health emergency caused by novel coronavirus 2019 (COVID-19).

3. **[PROVIDER] and its individual health care providers will evaluate each health care service, in concert with each patient’s individual medical needs, to determine what services, procedures, and surgeries are essential health care services and which are non-essential health care services. Notwithstanding the guidance and examples provided in this document, it is the responsibility of each individual provider to use professional discretion and judgement in evaluating which health care services can be delayed and which should be provided, taking into consideration the best interests of the patient.**

4. To reopen or expand ambulatory or inpatient surgery, [PROVIDER] and its individual health care providers affirm past compliance with all current Public Health Emergency Orders and demonstrate the following:

I. [PROVIDER] and its individual health care providers will comply with Department of Health regulations and Public Health Emergency Order, including but not limited to:

- a. Complying with the instructions in “[Medically Necessary Surgery and Procedural Guidelines \(Revised\)](#)”
- b. Reporting daily to the Department via the HAvBED system regarding:
 - i. PPE supply
 - ii. Hospital bed availability of general medical/surgery beds, ICU beds, and ventilators by type
 - iii. Hospital capacity of behavioral health beds
- c. Cooperating with Department requirements for reporting of airway medication management pharmaceutical supplies
- d. Demonstrating full implementation of PPE conservation and decontamination strategies
- e. Reporting daily COVID testing activity via the Department’s website (where applicable)
- f. Using the Department’s Centralized Call Center for any transfers of COVID-19 patients
- g. Restricting visitors in healthcare settings during a state of emergency
- h. Maintaining an adequate staffing plan to support inpatient facilities as a first priority (where applicable)

II. [PROVIDER] and its individual health care providers have developed, enacted, and will monitor a plan to ensure that all employees, medical staff, and patients will be protected by the following COVID-19-related precautions:

- a. The facility monitors employees, medical staff, and prospective surgical patients for symptoms of COVID-19
- b. The facility requires employees and medical staff to stay at home when they are sick.
- c. The facility requires employees, medical staff, and prospective surgical patients wash their hands frequently.
- d. The facility requires employees and medical staff to avoid touching their eyes, nose, and mouth with unwashed hands.
- e. The facility requires employees, medical staff, and prospective surgical patients cover cough or sneeze with a tissue, then throw the tissue in the trash.
- f. The facility requires strict adherence to cleaning and disinfection protocols.
- g. The facility requires employees, medical staff, and prospective surgical patients to maintain a six-foot distance from others whenever possible.
- h. The facility has implemented measures to avoid gatherings of more than five people whenever possible, including closing common waiting areas and cafeterias and/or creating barriers to maintain social distancing.
- i. The facility has implemented measures to protect vulnerable populations by prioritizing methods to provide services to them without face-to-face contact when possible; “vulnerable populations” includes, at a minimum: adults over 64 years old, people with asthma, people with chronic lung conditions, people with immune deficiency and those receiving cancer treatment, people with serious heart disease, people with diabetes, on dialysis, people with severe obesity, people with chronic liver disease, people living in nursing facilities and other congregate settings, and people experiencing homelessness.

III. [PROVIDER] and its individual health care providers will also comply with additional guidelines outlined in the May 8, 2020 assessment issued by the New Mexico Medical Advisory Team entitled [“Medically Necessary Surgery and Procedural Guidelines \(Revised\).”](#)

- a. Public Health gating criteria as decided by State authorities will shape timing of resumption of surgery and procedures.
- b. Facilities to decide capacity goal: (e.g. 25% vs 50% of pre-COVID-19 procedural capacity). The MAT strongly recommends facilities do not exceed 50% pre-COVID -19 procedure volume for first 2 weeks. Upon completion of a 2-week pilot period and review of PPE supply levels and COVID-19 incidence curves, decisions regarding further ramp-up can be made. These decisions should be made in accordance with public health gating criteria established by the State.
- c. Facilities to establish governance committees to address prioritization of cases, with priority given to patients in severe pain, severe ADL dysfunction, expected to possibly worsen surgical challenge to treat and / or adversely affect usual outcome. Prioritization of cases should occur according to specialty society guidelines. Recommend starting with ambulatory surgery cases first, however surgeon judgement of risk and benefit should take priority.
- d. Avoid procedures on patients with high likelihood for need for post-acute care at rehabilitation facility or skilled nursing facility.
- e. Consider postponement of procedures requiring transfusions, pharmaceuticals in short supply, and ICU admission.

- f. Telephone screening of patients and caregivers for symptoms, previous exposure, and prior COVID-19 testing by Pre-anesthesia team/scheduling. Upon arrival to facility, screen all patients for symptoms including temperature and pulse oximetry checks.
- g. COVID-19 nucleic acid-based testing is highly recommended within 48 hours of a procedure using a highly sensitive testing platform (e.g. Abbott M2000, Roche 6800, Cepheid GeneXpert).
- h. Point of care device testing is not recommended in this setting due to lower sensitivity. Nasal or nasopharyngeal sample sources (and appropriate swabs/transport media) are acceptable for testing. (At this time, antibody testing alone does not add clinically actionable information for procedures. Home self-collection is not acceptable).
- i. Facilities should follow CDC guidelines for COVID risk assessment, exposure mitigation, and testing of healthcare personnel.
- j. Facilities should have protocols in place for reporting positive tests.
- k. Facilities should consider social distancing contracts between provider and patient from the time of testing to 14 days after procedure. All facilities should have a designated waiting area that allows social distancing (consider one masked caregiver to be with patient only for post-operative instructions if needed).
- l. All patients and caregivers to wear a mask.
- m. Demonstration of adequate PPE for 14 days in accordance with CDC guidelines.
- n. Staff training on, and proper use of, PPE according to non-crisis level evidence-based standards of care (see CDC guidelines).
- o. Regular reporting to State authorities of PPE availability and demonstration of availability commensurate with planned capacity increase.

5. [PROVIDER] understands that any health care provider who willfully violates the Order will be subject to civil administrative penalties, including fines up to \$5,000 per violation, in addition to other civil and criminal penalties.

6. The definitions and examples below are intended to assist health care providers in making determinations on essential and non-essential health care services.

DEFINITIONS

“Essential health care services” means medical services, procedures, and surgeries related to (a) emergency medical care or any actions necessary to provide treatment to patients with emergency or urgent medical needs; (b) any surgery or treatment that if not performed would result in serious condition or a patient worsening (i.e. removing a cancerous tumor or surgery to manage an infection); (c) the full suite of family planning services; and (d) behavioral health services, including substance-use disorder treatment, and treatment for mental illness.

“Non-essential health care services, procedures, and surgeries” include those which can be delayed without undue risk to the patient’s health. Examples of criteria to consider in distinguishing between essential and non-essential actions include: (a) threat to a patient’s life; (b) threat of permanent dysfunction of an extremity, including teeth, jaws, and eyes; (c) risk of metastasis or progression of staging; and (d) any other factors that will conserve medical resources without creating an undue risk of harm to patients. It is ultimately the role of the practitioner and the patient to determine what treatments and procedures are nonessential under these broad requirements and the determination will vary by patient and over time.

7. On behalf of [PROVIDER], I _____, as _____, hereby state and attest that [PROVIDER] will adhere to the above policy and guidance above in compliance with the Order dated April 30, 2020.

Signature of Health Care Provider or Authorized Representative

Date