State of California—Health and Human Services Agency
California Department of Public Health

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Director & State Public Health Officer

GAVIN NEWSOM
Governor

State Public Health Officer Order
1/5/2021

California is experiencing an unprecedented and exponential surge in COVID-19 cases, and staffing and other resources are becoming strained. COVID-19 hospitalizations have increased sevenfold over the last two months, while COVID-19 Intensive Care Unit (ICU) hospitalizations have increased **by over sixfold** over the last two months, and large proportions of California hospitals have reached significant strain on their ability to provide adequate medical care to their communities. Over half of California hospitals have requested waivers for conventional staffing ratios per patient, and more anticipate ongoing staffing shortages. There is a shortage of ICU bed availability and many hospitals have added surge ICU beds but still need additional staffing to meet the ongoing demand. The distribution of COVID-19 hospitalizations is focused in some areas and hospitals, and the burden of care needs to be shared across our statewide healthcare resources. If this increase of COVID-19 patients continues, hospitals may be unable to provide necessary emergency and critical care to Californians.

Immediate action is necessary to preserve resources, to help prevent the need to adopt crisis standards of care, and to ensure that hospitals can continue to care for critically ill Californians suffering from COVID-19 as well as other life-threatening conditions.[1] Crisis care occurs when resources are scarce and the focus changes from delivering individual patient care to delivering the best care for the patient population. When intensive care unit capacity is limited by staffing, supplies, or space due to the surge of COVID-19 hospitalizations and ICU admissions, immediate measures must be taken to ensure there is system-wide capacity to provide safe and appropriate medical care. When hospitals are overwhelmed, they are unable to provide care meeting appropriate medical standards or to implement appropriate infection control measures needed to prevent further spread of COVID-19 disease in the healthcare setting. If hospitals lose the capacity to care for seriously ill COVID-19 cases, those highly infectious COVID-19 patients will be pushed into the general community which will further increase community transmission.

NOW, THEREFORE, I, as State Public Health Officer of the State of California, order:

1. In order to prioritize services to those who are sickest and prioritize resources for providers directly caring for them, when a county is in a region under the Regional Stay at Home Order that has zero percent ICU availability (0%) and the CDPH calculation of the ICU availability for that county is ten percent (10%) or less:

[1] In June 2020 the California Department of Public Health published and circulated California Sars-CoV-2 Pandemic Crisis Care Guidelines.

a. All hospitals and ambulatory surgery centers shall categorize all elective procedures by Tier using the Elective Surgery Acuity Scale (ESAS) from St. Louis University and suggested by the American College of Surgeons.

b. All hospitals and ambulatory surgery centers operating under the hospital license or hospital based clinic in the county shall delay ESAS Tier 1 and 2 surgical procedures for at least as long as this order remains effective in the county.

c. All ambulatory surgery centers still performing surgical procedures shall coordinate with local hospitals to ensure the hospitals where post-surgery admissions are usually referred to have capacity to accept any possible post-surgery admissions prior to performing any surgery or other invasive procedure.

d. A hospital in the county that has reached crisis care and does not have the ability to examine and treat patients shall notify their Medical and Health Operational Area Coordinator (MHOAC)[2], Local Health Officer, and CDPH Licensing & Certification District Office[3] that the hospital has reached crisis care.

e. When capable, a hospital in the county that has reached crisis care shall, when clinically appropriate:

    i. Transfer patients as directed by the:

        1. Medical Health and Operational Area Coordinator (MHOAC), when transfers are coordinated within the affected patient's operational area or county

        2. Regional Disaster Medical Health Specialist (RDMHS), when transfers require coordination out of the affected patient's local operational area, but within the same Office of Emergency Services (OES) region

        3. EMSA Director or designee, when transfers require coordination outside of the affected patient's OES region.

    ii. Utilize the California Emergency Command and Transfer Center (855) 301-2337, when the RDMHS or EMSA Director levels of transfer above are invoked.

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[2] Medical Health Operational Area Coordination (MHOAC) Program: A comprehensive program under the direction of the Medical Health Operational Area Coordinator (MHOAC). The MHOAC Program coordinates the 17 public health and medical functions within the operational area as specified in Health and Safety Code §1797.153. In each operational area the county health officer and the local EMS agency administrator may act jointly as the medical health operational area coordinator (MHOAC). If the county health officer and the local EMS agency administrator are unable to fulfill the duties of the MHOAC they may jointly appoint another individual to fulfill these responsibilities.

[3] See AFL 20-91 "California Crisis Care Continuum Guidelines: Implementing During the Surge of Coronavirus Disease 2019 (COVID-19) Cases"

iii. Comply with all non-waived and otherwise sections of the federal Emergency Medical Treatment and Active Labor Act (EMTALA), 42 U.S.C. § 1395dd, including the requirements to provide stabilizing treatment within the hospital's capabilities and capacity prior to the admission of the individual to the facility or the initiation of a transfer to another hospital, and to provide a medical screening examination to any individual who comes to the emergency department and requests examination or treatment.

iv. Not consider a patient's insurance status or ability to pay when making transfer decisions pursuant to this Public Health Order.

2. When they are capable and when such transfers are clinically appropriate, all hospitals in the State of California must accept patients from hospitals in crisis care transferred pursuant paragraph 1.f.i. as directed by the:

    a. Medical Health and Operational Area Coordinator (MHOAC), when transfers are coordinated within the affected patient's operational area or county

    b. Regional Disaster Medical Health Specialist (RDMHS), when transfers require coordination out of the affected patient's local operational area, but within the same OES region.

    c. EMSA Director or designee, when transfers require coordination outside of the affected patient's OES region.

3. When transferring patients pursuant to this order, the MHOAC, RDMHS and EMSA Director or designee should take all measures to ensure balanced distribution of patients across the hospital system and shall immediately notify the MHOAC and RDMHS in the receiving county if it is different than the sending county or OES region.

4. Hospitals directed and capable of accepting patients under this order must acknowledge their acceptance of the patient within 60 minutes of the request.

5. This Order shall take effect **immediately**.

6. The provisions in Section 1 of this Order shall remain in effect for at least three weeks, and until the order is rescinded. All other provisions of this Order shall remain in effect as long as any county is subject to Section 1.

7. The State Public Health Officer will continue to monitor the epidemiological data and will modify these terms as required by the evolving public health conditions. If the State Public Health Officer deems it to be in the interest of public health and safety to change the terms herein, these modifications will be posted at _____.

8. This order is issued pursuant to Health and Safety Code sections 120125, 120140, 120175,120195 and 131080; EO N-60-20, N-25-20, N-27-20, N-39-20, and other authority provided for under the Emergency Services Act; and other applicable law.

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