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

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AFL 09-39

TO: General Acute Care Hospitals

SUBJECT: H1N1 Response

Authority:
Government Code (GC) §8558
California Code of Regulations (CCR), Title 22, §70129, §70217, §70805, §70809

Background:
As the ongoing California Department of Public Health (CDPH) H1N1 response continues, CDPH Licensing and Certification Program (L&C) continues to provide information to licensed health care facilities. This All Facilities Letter (AFL) outlines requirements during this potential health care emergency. See Sections I through VI below for more information.

I. Rescission of AFL 09-19's Reporting Requirements:

AFL 09-19 stated, "All cases of confirmed or probable H1N1 Flu infection in hospitalized patients must be reported within one working day to the local health department and also to the CDPH L&C District Office. Patients with severe respiratory illness who have H1N1 Flu infection as part of their differential diagnosis should also be reported."

This AFL rescinds the above instruction to hospitals to report occurrences of H1N1 to their L&C District Office. The above rescission does not apply to unusual occurrences which must continue to be reported in compliance with regulations.

II. Tent Use:

Approval to set up a tent is required by California Code of Regulations Title 22 (22 CCR), §70805, which states that, "Spaces approved for specific uses at the time of licensure shall not be converted to other uses without the written approval of the Department." Use of hospital property for tents constitutes a conversion of space. This means that hospitals must obtain CDPH's written approval for tent use. Approval of tents will not be provided unless the hospital has obtained written approval from the local fire authority for tent use.

In the absence of any specific suspension of statute or regulation by Governor's Executive Order, tents will be approved for use only as waiting rooms, to conduct triage and Medical Screening Exams, to provide basic first-aid, and outpatient treatment that meets all applicable rules and regulations. Any other use may require a program flex. A form has been provided that can be used to submit a program flex request to provide services in tents beyond those described above. See Section VI below.

Non-declared emergency tent use approval:
CDPH L&C has been addressing high patient volume at individual hospital Emergency Departments (EDs). This has included approving the use of tents to meet the increased demand for medical care.

To receive approval for tent use, hospitals must contact their L&C District Office (DO), explain their situation, justify their use of tents, and obtain tent use approval.

Additionally, L&C has determined that the present threat of widespread H1N1 infection could cause many hospitals to have a need to convert space almost simultaneously. This determination has resulted in the development of an alternative form for L&C's tent use approval during a declared emergency, in addition to this case-by-case approval process. See the following for this process.

Tent Use Approval during a declared emergency:
This AFL is L&C's written approval of tent use as long as the necessary criteria, provided below, have been met. This alternative approval process for the use of tents is only for the current H1N1 response and only during the time of a declared emergency, specifically when:

- The Governor has declared an emergency, as defined in GC Section §8558, for the hospital's geographical area and stated that health care surge exists,

OR

- An authorized local official, such as a local health officer or other appropriate designee, has declared a local emergency, as defined in GC Section §8558, for the hospital's geographical area and stated that health care surge exists,

AND

- Hospitals have reported setting up and using a tent to their local L&C District Office (A form has been provided that can be used to notify L&C. See Section VI below.)

Hospitals should expect L&C to periodically contact them to get status reports on their use of a tent. When a declared emergency that meets the above criteria is over, there is no further approval for the use of tents for patient care. Please notify

your local L&C District Office when the use of the tent is discontinued and the tent is taken down.

III. Patient Accommodations:

According to 22 CCR, §70809(a), "No hospital shall have more patients or beds set up for overnight use by patients than the approved licensed bed capacity except in the case of a justified emergency when temporary permission may be granted by the Director or his designee."

Additionally, pursuant to 22 CCR §70809(c), "Patients shall not be housed in areas which have not been approved by the Department for patient housing and which have not been granted a fire clearance by the State Fire Marshal, except as provided in paragraph (a) above."

Hospitals must request and receive L&C approval to use more beds than their licensed capacity. This approval process is distinct from the program flexibility approval process as described in 22 CCR §70129. The services provided within the expanded capacity must be in compliance with all applicable laws and regulations at all times. A form has been provided that can be used to submit requests for space accommodation approval. See Section VI below.

IV. Space Conversion Approval:

22 CCR, §70805 requires, "Spaces approved for specific uses at the time of licensure shall not be converted to other uses without the written approval of the Department." Use of hospital property for any purpose other than that approved at the time of licensure, therefore, constitutes a conversion of space and requires L&C approval.

The approval process to convert space is distinct from the program flexibility approval process as described at 22 CCR §70129. The services provided within the expanded capacity must be in compliance with all applicable laws and regulations at all times. A form has been provided that can be used to submit requests for space conversion approval, see Section VI below.

V. Nurse to Patient Ratio Requirements:

L&C has no mechanism for "suspending" or "waiving" regulations which represent the minimum standards providers are required to meet at all times. The nurse to patient ratios, at 22 CCR §70217, are the same as all other regulations. If a hospital has an alternative means of meeting the intent of the regulations, then the hospital can request program flexibility in accordance with 22 CCR §70129, and L&C will give the request all due consideration. Please submit your request using the form provided at Section VI below.

VI. Request Forms:

A form to use in submitting H1N1 requests for L&C approvals, as referenced above, is provided at www.cdph.ca.gov/programs/Pages/LnC.aspx