



We care about Iowa's health

April 2, 2020

Via Email Only To

hfdwaivers@dia.iowa.gov

Hon. Larry Johnson
Director
Iowa Department of Inspections and Appeals
321 E 12th St.
Des Moines, IA 50319
larry.johnson@dia.iowa.gov

Re: Request for Additional Regulatory Waivers for Iowa Hospitals from Chapter 51

Dear Director Johnson:

We appreciate your continued willingness to work with Iowa's health care stakeholders to ensure that Iowans are provided with adequate testing and treatment for COVID-19. We look forward to our continued cooperation while navigating this public health emergency. We are especially grateful for the regulatory relief you granted us in your April 1, 2020 letter to us and your time on the telephone earlier today.

We are writing to request additional regulatory relief on behalf of all 118 Iowa hospitals. Specifically, we are asking that the Department of Inspection and Appeals (DIA) to waive the enforcement of various aspects of Chapter 51 of DIA's administrative rules (IOWA ADMIN. CODE § 481-51) (the "Rules"). We ask for these waivers in light of strain that this public health emergency is putting on our hospital's resources. As you have already heard, many of Iowa's hospitals' staffs are stretched thin. Many hospitals are constructing, preparing to construct, or repurposing alternative building sites in order to quarantine patients exposed to COVID-19. Our hospitals are simply unable to comply with many of the regulations they can comply with under normal conditions.

It is our understanding that you have received a separate request to waive all of Chapter 51. We support that request and hereby endorse it on behalf of all Iowa hospitals. However, to the extent DIA does not waive the entirety of Chapter 51, we request that DIA waive the following Rules for the duration of the public health emergency.

General Waiver of Credentialing Requirements

IHA requests that DIA waive all regulations that impose credentialing requirements on hospitals for newly retained providers for the duration of the COVID-19 public health emergency. A waiver of such regulations will allow hospitals to recruit and retain their workforces more quickly in light of the COVID-19 pandemic. Many of the regulations related to credentialing



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of newly retained providers prevent providers from beginning to work immediately. A relaxation of such regulations will ensure hospitals' providers can work immediately after they are retained by a hospital.

Rule 481-51.5: Medical Staff

IHA respectfully requests that DIA waive enforcement of Rule 481-51.5 regarding medical staff. A waiver of this rule will allow hospitals more flexibility in where they staff their providers. Furthermore, due to the sudden need of additional providers in light of the pandemic, providing hospitals relief from this rule's credentialing policy requirements will ensure that hospitals need not spend the time to re-write their policies in the middle of this crisis to allow inactive or retired providers assist their hospital during the public health emergency.

Rule 481-51.9: Nursing Services

IHA respectfully requests that DIA waive enforcement of Rule 481-51.9 regarding nursing service for the duration of the public health emergency. As you are aware, the Governor has already waived certain licensing requirements for nurses during the public health emergency. As stated above, nurses at Iowa hospitals are spread thin and a temporary enforcement waiver of this provision will ensure that hospital nurses can work as quickly and efficiently as possible while also managing more work than usual under circumstances that are less than ideal (for example, not being able to use personal protective equipment (PPE) as they normally would).

Rule 51.12: Records and Reports

IHA respectfully requests that DIA waive enforcement of Rule 481-51.12 regarding records and reports for the duration of the public health emergency. As you are aware, the Centers for Medicare and Medicaid Services (CMS) has already waived various requirements regarding the timing of when medical records must be recorded to provide hospitals and providers more flexibility as they treat a surge in patients at their facilities. While hospitals will continue to keep medical records, a waiver of the enforcement of this rule will provide hospitals the flexibility to ensure that they are putting all of their available resources towards treating patients.

Rules 51.14(3), (4), and 51.15: Verbal Orders

IHA respectfully requests that DIA waive enforcement of Rules 481-51.14(3)-(4) and 51.15 regarding the timing of when verbal orders must be recorded. As you can imagine, providers in Iowa's hospitals are dealing with a surge of patients and a waiver of the timing requirement of when verbal orders must be recorded will give providers the flexibility they need to treat patients while there is such a high volume of patients needing treatment or testing. As you are likely aware, CMS has already waived similar rules related to Medicare, so a waiver of these rules will ensure parity with the federal guidance and waivers.



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Rule 51.22: Equipment for Patient Care

IHA respectfully requests that DIA waive enforcement of Rule 481-51.22. You have likely seen guidance and rule waivers issued by the U.S. Food and Drug Administration (FDA) stating that many pieces of equipment including respirators and ventilators need not meet manufacturer's specifications during the national public health emergency because hospitals need flexibility to use equipment that may not meet all such specifications due to patient surges. Providing a waiver of this rule will ensure that hospitals are not sanctioned for using equipment that may be out of date or otherwise not used due to this rule under normal conditions, which will allow hospitals to have more equipment to treat patients during the public health emergency.

Rule 51.24(1): Segregation

IHA respectfully requests that DIA waive enforcement of Rule 481-51.24(1). Due to the public health emergency, hospitals need to be able to hold more patients than usual, which means they may not be able to comply with the segregation requirements of this rule.

Rule 51.24(3)(d): Screening and Testing for Tuberculosis

IHA respectfully requests that DIA waive enforcement of Rule 481-51.24(3)(d) as well as Rule 481-59, as referred to therein. Due to the public health emergency, hospitals need to be able to expedite the hiring and credentialing of new staff. Tuberculosis screening takes several days, and while hospitals can conduct the screenings, new staff members should be able to work immediately after being retained by a hospital.

Rule 51.41: Criminal, Dependent Adult Abuse, and Child Abuse Record Checks

IHA respectfully request that DIA waive enforcement of Rule 481-51.41 requiring hospitals to conduct background checks prior to employment at a hospital. Waiving this rule will allow hospitals the flexibility they need to recruit and retain health care workers at this time. While hospitals recognize the necessity of conducting background checks, hospitals request that DIA allow hospitals to employ an individual so long as the hospital has begun the background check process and all the individual to work while the background check is being completed.

Rule 51.50: Minimum Standards for Construction

IHA received your guidance regarding Rule 51.50 in your April 1, 2020 letter. We appreciate your guidance both in that letter and on the telephone on today. We will communicate to our members that they can receive expedited approval of the inspection of buildings in which they intend to house patients. We will also ask our members to work with the State Fire Marshal to receive the flexibility they need to continue to serve and treat their communities in the event that they intend to use alternative buildings to house patients.



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Again, we thank you for your continued service to the state during this public health emergency. We look forward continuing our work together to ensure Iowa's hospitals can serve their communities in light of the COVID-19 outbreak. Should you have any questions about our requests, please contact us at your convenience at murphyk@ihaonline.org and keehnlem@ihaonline.org.

Sincerely,

A handwritten signature in black ink that reads 'K. M. Murphy'.

Kimberly Murphy
Vice President and Asst. General Counsel
Iowa Hospital Association

A handwritten signature in black ink that reads 'Maureen Keehnle'.

Maureen Keehnle
Senior Vice President and General Counsel
Iowa Hospital Association

Cc (via email):

Paige Thorson
Deputy Chief of Staff
Office of Iowa Governor Kim Reynolds

Ashleigh E. Hackel
General Counsel
Iowa Department of Inspections and Appeals