



## Department of Health

**ANDREW M. CUOMO**  
Governor

**HOWARD A. ZUCKER, M.D., J.D.**  
Commissioner

**SALLY DRESLIN, M.S., R.N.**  
Executive Deputy Commissioner

March 18, 2020

DHDTC DAL 20-08  
RE: Emergency Approvals for COVID-19

Dear Hospital CEOs and Diagnostic & Treatment Center (D&TCs) Administrators:

This guidance is intended for healthcare facilities seeking emergency approval from the New York State Department of Health (the Department) for additional capacity or alternative sites for testing, triage, screening or treatment related to COVID-19 surge response. Construction or modification requests related to the use of alternative facilities or development of additional capacity are covered under State regulations at 10 NYCRR Section 401.3 and Parts 709 and 710. The Department will exercise its authority under Executive Order 202.1 to issue emergency approvals for these requests. Examples of the types of alternative facilities or additional capacity may include but are not limited to:

- Installation of tents, trailers or other temporary spaces;
- Repurposing of existing space within a hospital or on the hospital campus;
- Use of alternative sites outside a hospital, hospital campus or other facility;
- Requests to exceed bed capacity or modify bed types.

Facilities seeking to create additional capacity for COVID-19 response must submit a written notice to the appropriate DOH Regional Office. The notice must include the following information, as appropriate depending on the proposed use of the space:

- Description of the project including the areas being constructed, modified or repurposed
- Anticipated purpose, capacity and type of space; e.g., screening and testing, treatment rooms, inpatient space, triage areas, airborne isolation rooms/areas;
- Assurances that the space and plan have been reviewed and approved by hospital and infection control leadership, and that the project will comply with the most current State and federal guidance related to treatment of patients with known or suspected COVID-19.

All emergency approvals will be issued directly by the Regional Office of the Division of Hospitals and Diagnostic and Treatment Centers. Emergency approvals will be time limited, based on the purpose of and need for the proposed project. A Certificate of Need (CON) will be required only for projects requesting permanent approval. Note that the management of patients presenting to hospital emergency departments (ED) must comply with any applicable requirements of the Emergency Medical Treatment and Labor Act (EMTALA). CMS is issuing updated guidance on EMTALA requirements as they relate to the COVID-19 response and this guidance will be shared as soon as it is available.

The Department is committed to having a rapid turn-around time for these approvals to increase capacity for COVID-19 activities. Facilities are encouraged to submit requests as soon as they have identified any available options. Factors that should be considered when going forward with identifying, modifying or creating additional space or capacity for COVID-19 include:

- Environmental services including provisions for regular and regulated medical waste disposal;
- Any necessary air exchange and HVAC system requirements, depending on the type of clinical services provided;
- An infection control plan including cleaning and disinfection protocols, access to handwashing and appropriate personal protective equipment (PPE);
- Staffing and training plans;
- Fire protection plan for the identified additional or alternate site proposal; including any required fire and carbon monoxide alarm systems;
- Provisions for patient privacy and confidentiality;
- Securing any required local permits or approvals.

Questions regarding the emergency approval process should be directed to your Regional Office of the Division of Hospitals and Diagnostic and Treatment Centers.

Sincerely,

A handwritten signature in black ink, appearing to read "Deirdre Astin". The signature is fluid and cursive, with the first name "Deirdre" and last name "Astin" clearly distinguishable.

Deirdre Astin, Director  
Division of Hospitals and Diagnostic &  
Treatment Centers