

Executive Order 20-12 – COVID-19 Frequently Asked Questions

Updated: 4/1/2020

On 3/31/2020, Pete Ricketts, Governor of the State of Nebraska, signed an Executive Order which suspends several statutes and their regulations from the Health Care Facility Licensure Act relating to specific health care facilities and services to ensure patients have access to health care and receive necessary health care services.

The Centers for Medicare & Medicaid Services (CMS) has also issued [blanket waivers](#) that may assist health care facilities and services in responding the coronavirus emergency.

Q: Where can I find Governor Ricketts' Executive Order 20-12?

A: Governor Ricketts' website is governor.nebraska.gov. All executive orders can be found [here](#).

Q: What is an executive order?

A: An executive order is a rule or order issued by the Governor to a branch of state government that also has the force of law.

Q: How long does this executive order last?

A: Executive Order 20-12 applies while the declared public health emergency remains in effect and for 30 days after the lifting of the COVID-19 state of emergency.

Q: When does Executive Order 20-12 become effective?

A: Executive Order 20-12 is effective immediately upon the signature of the Governor. The Governor signed the order 3/31/2020.

Q: What health care facilities and services does Executive Order 20-12 apply to?

A: Executive Order 20-12 is applicable to all licensed health care facilities and services.

Q: How does Executive Order 20-12 affect critical access hospitals (CAHs)?

A: Executive Order 20-12 affects CAHs specifically in the following manner:

- Removes the requirement to maintain an average length of stay of 96 hours per patient; and
- Removes the limitation of a CAH to only have 25 patient beds.



Q: If my critical access hospital has expanded the number of patient beds during the State Declaration of Public Health Emergency, when does it need to return to the previous licensed number of beds?

A: The CAH would be required to return to the previous number of licensed beds within 30 days after the lifting of the COVID-19 state of emergency.

Q: How does Executive Order 20-12 affect facility and service licensure?

A: The licenses due to be renewed during this time will be extended.

Q: When will I be able to renew my facility or service license?

A: A facility or service whose license expires during Executive Order 20-12 will have 30 days after the lifting of the COVID-19 state of emergency to submit their renewal application, supporting documentation and licensure fees.

Q: Do I have to wait to submit my renewal license application, documents and fees?

A: Licenses due to be renewed during the declared emergency will be extended until 30 days after Executive Order 20-12 is no longer in effect. Wait until you receive a renewal notice before submitting your renewal application. Licensees will have 90 days to submit their renewal application, supporting documentation and licensure fees.

Q: What about renewals after the State Declaration of Public Health Emergency is lifted?

A: After that time, licensees will be subject to the regular requirements of renewal at the next regular renewal period.

Q: My facility or service license is not due to renew soon. Does Executive Order 20-12 apply to me?

A: Executive Order 20-12 applies to any facility or service license that normally would expire during the time of the State Declaration of Public Health Emergency.

Q: How does Executive Order 20-12 affect ambulatory surgical centers (ASCs)?

A: Executive Order 20-12 removes the requirement that ASCs must meet the Medicare conditions of participation and allows ACS patients to be able to remain in the facility overnight and/or past 24 hours if the facility cannot find a hospital or other healthcare bed to which to transfer the patient.

Q: If my (ASC) is not providing any elective surgeries during the State Declaration of Public Health Emergency, can we close and reopen after the emergency?

A: Each (ASC) must make this decision based on what the individual facility's Emergency Plan requirements are and how each facility independently chooses to operate. Some ACSs may be utilized for surgeries that are considered 'emergent' or it is possible that some ambulatory surgical centers may be utilized to provide other types of health care service and treatment during this emergency.





Q: If my (ASC) is not allowed to perform elective surgeries during this time, when can we resume scheduling and conducting elective surgeries?

A: An (ASC) would be allowed to begin performing elective surgeries at the end of the State Declaration of Public Health Emergency as long as no other action, such as a statute, regulations, or a subsequent executive order, prohibits these surgeries.

Q: How does Executive Order 20-12 affect assisted living facilities?

A: Executive Order 20-12 affects assisted living facilities by allowing complex nursing interventions to be provided in assisted living facilities for greater than 21 days and by providing the opportunity for complex nursing interventions in assisted living facilities to address potential resident/patient surge during this crisis.

Q: How does Executive Order 20-12 apply to facility construction?

A: Executive Order 20-12 affects facility construction for specific facilities by:

- Removing the requirement to submit schematics and construction plans for pre-approval by the Department before an assisted living facility, hospital, health clinic, or hospice facility is built or has construction; and
- Removing the need for a post-construction inspection by the Department to determine compliance with construction plans and conformity with physical plant requirements for a center for the developmentally disabled, assisted living facility, health clinic, hospital, hospice, intermediate care facility for individuals with intellectual disabilities or mental health substance use treatment center.

Q: How does Executive Order 20-12 affect hospitals?

A: Executive Order 20-12 affects hospitals by:

- Removing notifications to the Department regarding planned patient occupancy and the use and location of beds;
- Allowing hospitals to provide care and treatment in alternate, non-hospital locations as long as these sites follow the Centers for Disease Control and Prevention (CDC) guidance;
- Suspending the current licensed bed limit, number of patients per room, and the use and location of beds;
- Suspending the requirement for the administrator to maintain adequate staff during this emergency;
- Easing requirements for the hiring and onboarding of new staff, including a temporary waiver of training and orientation requirements when hospitals utilize supplemental staff such as emergency medical service (EMS) providers;
- Allowing hospitals to utilize staff to accept telephone or verbal orders for individuals not named in the medical staff bylaws;
- Allowing hospitals to have longer than 30 days to complete medical records after discharge of a patient; and
- Suspending the limitation on a director of nursing, so the director can also function as the charge nurse as needed no matter the size of the hospital.

Q: Where can I find the CDC guidance for alternative sites for hospitals?

A: The CDC Guidance for alternative care sites can be found at:

<https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/alternative-care-sites.html>



Q: Does Executive Order 20-12 suspend penalties or citations for failure to meet or maintain regulatory requirements during the State Declared Public Health Emergency?

A: While CMS is leading the enforcement actions for certain health care facility and service types, the Department will be as lenient as possible given the specifics of each individual infraction. The Department is suspending all survey activity except to investigate situations or concerns that pose potential or actual imminent danger, to investigate issues regarding infection control practices, and to conduct initial inspections of new facilities and services.

Q: Does Executive Order 20-12 suspend requirements related to orders for seclusion, patient visitation, discharge planning or health screenings for staff?

A: Executive Order 20-12 does not address these requirements. Facilities have the authority within their own policies to address these matters.

Q: Does Executive Order 20-12 allow medical and nursing students to provide care and treatment to patients during the State Declared Public Health Emergency?

A: No, however, by statute, students attending an accredited school of medicine and practicing under the supervision of a licensed physician are exempt from the requirement to have a license as a physician, and students enrolled in an approved program of nursing may provide nursing services as part of a student's course of study.

Q: Why doesn't Executive Order 20-12 waive the requirement for health care facilities to conduct health screenings and physical examinations when staff are hired?

A: It is the responsibility of each facility to ensure that persons who are working in the facility do not have health conditions that may be infectious and transmitted to persons receiving services at the facility.

Q: Why doesn't Executive Order 20-12 suspend criminal background checks and registry checks for staff to help facility get staff hired faster?

A: Executive Order 20-12 does not address these issues as they can be rapidly completed online. It is important that the persons receiving care and treatment in our health care facilities are not subject to possible criminal activity or abuse or neglect by persons providing their care.

Q: How does Executive Order 20-12 help facilities who want to utilize emergency medical service personnel to provide care and treatment?

A: Executive Order 20-12 removes the requirement for hospitals and health clinics to provide orientation to persons who may supervise EMS staff once they are hired, making it easier and faster to onboard these personnel if needed to provide care and treatment to patients.

Q: Does Executive Order 20-12 provide relief from Life Safety Code, State Fire Code and Food Code requirements?

A: While surveys specific to Life Safety Code, State Fire Code, and Food Code may not occur during the State Declared Public Health Emergency unless there is potential or actual imminent danger to persons receiving care or treatment at the facility or service, the expectation is that facilities will remain in compliance. The Department will be as lenient as possible given the actual circumstances surrounding each individual violation.

Q: How does Executive Order 20-12 affect long-term care and rehabilitation facilities that have restrictions on the addition of beds due to the Certificate of Need Act?

A: Executive Order 20-12 temporarily waives the moratorium on the addition or conversion of long-term care/rehabilitation beds by a hospital so these facilities may temporarily add these types of beds without having to obtain a Certificate of Need.

Q: If my facility added beds during the State Declaration of Public Health Emergency, when do we have to return to our previous number of licensed beds?

A: A facility previously under the moratorium for Certificate of Need will have to return to the previous number of licensed beds within 30 days after the lifting of the COVID-19 state of emergency.

Q: How much training do I need to provide to a nurse aide under Executive Order 20-12 in order for the nurse aide to perform nurse aide duties?

A: There is no minimum or maximum number of hours needed for training. Nurse aides need to be trained in order to be competent to furnish care that meets the resident's needs.

Q: Do individuals need to be on the Nebraska Nurse Aide Registry under Executive Order 20-12?

A: Individuals do not have to be on the Nebraska Nurse Aide Registry under Executive Order 20-12.

Q: My Nurse Aide Registration is lapsed/inactive, may I work as a nurse aide without being on the Nebraska Nurse Aide Registry?

A: You may work without being active on the Nurse Aide Registry under the Executive Order 20-12 and for 30 days after the lifting of the COVID-19 state of emergency.

Q: What training is needed for medication aide-40 hour under the Executive Order 20-12?

A: Executive Order 20-12 suspends training requirements for the medication aide-40 hour, but all types of medication aides must still demonstrate competency for the medication aide role. Please reference Nebraska Revised Statutes § 71-6725(4).


Q: My medication aide registration is lapsed/expired, may I work as a medication aide-40 hour, medication aide-20 hour, or medication aide without being on the Nebraska Medication Aide Registry?

A: Executive Order 20-12 only suspends the requirement for the medication aide-40 hour course. All medication aides needs to be active on the Medication Aide Registry.

Q: How much training do I need to provide to a paid dining assistant under Executive Order 20-12 in order for the paid dining assistant to assist residents with eating?

A: Executive Order 2012 suspends state training requirements for paid dining assistants. Any training requirements for these individuals set by CMS must be met





by nursing home providers who participate in the Medicare or Medicaid programs. A paid dining assistant may only feed residents who have no complicated feeding problems as selected by the nursing home based on the resident's assessment and plan of care.

Q: My facility has an x-ray machine or other source of radiation. Does Executive Order 20-12 address potential conflicts between current regulations and steps the facility might need to take to protect staff and patients during the COVID-19 emergency?

A: Executive Order 20-12 does not address x-ray machines or sources of radiation specifically. If your facility has identified a temporary need to change processes to protect staff and patients during this crisis that may conflict with regulations, the Department will consider these needs on a case-by-case basis. Individual exemptions, exceptions, and waivers to the rules will be considered as allowed for in Title 180 of the Nebraska Administrative Code § 1-003.01.