

Lead^{the}Way

Retaining Regulatory Efficiencies

Making COVID-19 Flexibilities Permanent



Trinity Health is one of the largest multi-institutional Catholic health integrated care delivery systems in the nation, serving diverse communities that include more than 30 million people across 22 states. We are building a health system that puts the people we serve at the center of every behavior, action and decision. This brings to life our commitment to be a compassionate, transforming and healing presence in our communities. We advocate for public policies that support better health, better care and lower costs to ensure affordable, high quality, people-centered care for all.

Build Upon Delivery System Improvements Achieved During the COVID-19 Response

In response to the COVID-19 public health emergency, federal and state government has provided regulatory flexibilities that enable health care providers to quickly respond to surge needs. The Centers for Medicare and Medicaid Services (CMS) has approved approximately 150 requests for state relief in response to the COVID-19 pandemic. These approvals help to ensure that states and health care providers have the tools needed to combat COVID-19 while providing continuous high-quality care in settings that are safest for patients including those who are vulnerable, elderly, or live with disabilities. Trinity Health strongly urges policymakers to retain many of these regulatory flexibilities/efficiencies so that providers can build upon improvements in care transformation that have been made in the use of alternative care settings, expanded telehealth and an adaptable workforce.

As the world with COVID unfolds, health care providers will likely see resurgences of COVID-19 cases. Nevertheless, with adequate protections, hospitals can begin to ramp up surgical and other elective procedures, while meeting the needs of patients with coronavirus. Not only does the health system need to re-open to meet the needs of patients and communities, a major component of the economic recovery will require a healthy and strong health care provider system. Hospitals, physicians, home health care and senior care together represent nearly 12 percent of the U.S. economy. The health of this sector of the economy is critical to the recovery of the overall economy.

It is imperative that federal and state governments continue to allow health care providers and hospitals regulatory flexibility to address future COVID-19 surges. The waiver suggestions outlined below – if made permanent – will equip Trinity Health and all health care providers to better serve patients and communities across the nation.

What Can Policymakers Do?

Make permanent expanded access to care through use of telehealth

- Allow clinicians to furnish and bill with parity of payment for services among all payers and across all settings using audio-only telephone (when clinically appropriate) or video technology commonly available on smart phones and other devices for services, particularly noting to include:
 - Ability to prescribe medications.
 - Expand covered services eligible for reimbursement.
 - Satisfying physician determination that a Medicare beneficiary should not leave home because of a medical reason or COVID-19 to satisfy the home health "homebound" requirement.
 - Satisfaction of face-to-face requirements for hospice, home health and patients in inpatient rehabilitation facilities.
 - Telehealth visits and "virtual check-ins" with physicians may be provided to new as well as established patients in all areas of the country and in all settings, with reimbursement at the same rate as in-person visits.

Federal Waivers

In order to extend waiver flexibilities, a Presidential declaration under the National Emergencies Act (NEA) and a Public Health Emergency (PHE) from the Secretary of Health and Human Services must be in place. The current NEA is in place for one year from the original date of March 13, 2020, or until official Presidential proclamation of it ceasing. The PHE was declared on January 27, 2020, and was renewed for 90 days on April 26, 2020. The federal waivers are in effect until the Federal PHE ends.

State Waivers

By March 16, 2020, every state had made an emergency declaration, with most taking the form of a State of Emergency or a PHE. The majority of state waivers are in effect until the State PHE ends.

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- Behavioral health services including care coordination, case management, and peer services; service needs assessments and treatment planning activities; outpatient psychiatric services; community mental health and rehabilitation services; and addiction recovery and treatment services.

Retain flexibilities for clinical workforce to support patient care

- Allow clinicians to practice at the top of their licensure within state licensing authority.
- Allow continued waiver protection for out-of-state clinicians while health system continues to care for COVID-19 patients as additional surges can be expected, but are difficult to predict.
- Advance participation in interstate compacts to allow practice across state lines in a safe and accountable manner while protecting patients, expanding access to care and reducing barriers to the practice of telemedicine.
- Permanently waive Medicare requirements that out-of-state clinicians be licensed in the state where they are providing services when they are licensed in another state if the physician or non-physician clinician meets key criteria on Medicare enrollment and valid license in another state.
- Priority professions include physicians, nurses (including advance practice RNs and other clinical nurse specialists), physician assistants, pharmacists and behavioral health workers including doctoral degrees (PhDs) and masters of social work (MSWs).

Make permanent certain federal protections of the Emergency Medical Treatment And Labor Act (EMTALA), the Stark/Physician Self-referral Law, and other matters

- Finalize proposed Stark law changes.
- Allow alternative care sites for diagnosis or medically necessary treatment of COVID-19 for any patient or individual, whether or not the patient or individual is diagnosed with a confirmed case of COVID-19.
- Permit shifting the diagnosis and care of patients to appropriate alternative settings due to COVID-19.
- Permanently waive requirements for a three-day inpatient hospital stay for coverage of a skilled nursing facility (SNF) stay.

Advance immunity waivers to support public health and safety

- Provide immunity from civil and criminal liability and good faith acts/omissions for individuals, facilities, and organizations for any damages alleged to have been sustained as a result of an act or omission undertaken in good faith in the course of providing services in support of the COVID-19 response.
- Authorize hospitals/health care providers to notify shelters/other community organizations of a patient's COVID-19 status as necessary to prevent or control the spread of the disease, or otherwise to carry out public health interventions or investigations.

Mission

We, Trinity Health, serve together in the spirit of the Gospel as a compassionate and transforming healing presence within our communities.

Core Values

Reverence • Commitment to Those Who Are Poor •
Safety • Justice • Stewardship • Integrity