



COMMONWEALTH of VIRGINIA

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April 23, 2020

WAIVER OF 12VAC5-410-10: GENERAL HOSPITAL DEFINITION

On March 12, 2020, Governor Ralph Northam declared a state of emergency due to novel coronavirus (COVID-19). In the declaration, Executive Order 51, the Governor directed state agencies to render appropriate assistance to prepare for and mitigate the effects of the coronavirus (COVID-19) outbreak. In doing so, he ordered authorization for the heads of executive branch agencies, on behalf of their regulatory boards as appropriate, and with the concurrence of their Cabinet Secretary, to waive any state requirement or regulation.

On March 13, 2020, President Donald Trump issued a proclamation declaring that the COVID-19 outbreak in the United States constitutes a national emergency under sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.). On that same day, pursuant to section 1135(b) of the Social Security Act (Act), the Secretary of the U.S. Department of Health and Human Services invoked his authority to waive or modify certain requirements of titles XVIII, XIX, and XXI in response to the COVID-19 pandemic to ensure that sufficient health care items and services are available to meet the needs of individuals enrolled in the Medicare and Medicaid programs.

Pursuant to section 1135(b) of the Social Security Act, the U.S. Centers for Medicare and Medicaid Services issued a waiver to allow currently enrolled ambulatory surgical centers (ASCs), to temporarily enroll as hospitals and to provide hospital services to help address the urgent need to increase hospital capacity to take care of patients.

Requirement: 12VAC5-410-10 states, in relevant part, ““General hospital” means institutions as defined by § 32.1-123 of the Code of Virginia with an organized medical staff; with permanent facilities that include inpatient beds; and with medical services, including physician services, dentist services and continuous nursing services, to provide diagnosis and treatment for patients who have a variety of medical and dental conditions that may require various types of care, such as medical, surgical, and maternity.”

Waiver: Notwithstanding the definition of “general hospital” in 12VAC5-410-10, a “general hospital” may also mean hospitals licensed as outpatient hospitals that are Medicare-certified ambulatory surgical centers and are temporarily enrolled with CMS pursuant to the CMS 1135 emergency declaration blanket waiver as a hospital during the duration of the emergency declared by Executive Order 51.

12VAC5-410-10: General Hospital Definition

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Questions regarding this document or the information contained within should be addressed to the Director of the Office of Licensure and Certification, Robert A. K. Payne, JD, by email at Robert.Payne@vdh.virginia.gov or by phone at (804) 367-2102.

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