

August 12, 2021

Governor Kate Brown
900 Court Street, Suite 254
Salem, OR 97301-4047

Sent via electronic mail

Re: Request for Executive Action to Facilitate Hospitals' Response to COVID-19 Delta Variant

Dear Governor Brown,

As the COVID-19 delta variant has quickly and firmly taken hold across our state, COVID-19 threatens to push Oregon hospitals and their staff beyond the brink of their capacities. Quite simply, the health care system is in crisis. Hospitalizations have now [surpassed the previous high](#) of this pandemic, and at least one [recent projection](#) indicates that the current wave is likely to exceed hospital capacity by 400-500 beds at its peak. Hospitals around the state are already struggling with staffing shortages, provider burnout, and capacity challenges stemming from decisions to delay care earlier in the pandemic, lack of staff, and other factors, such as the inability to discharge patients to other appropriate care facilities. An unprecedented COVID-19 surge on top of these circumstances will create a perilous situation for our hospitals and the patients who depend on them. We need you to act with urgency to save lives.

Regulatory and legal flexibility are essential for hospitals to adapt quickly to meet the demands of the surging pandemic, provide critical resources for our stretched workforce, and to maximize the benefits and minimize the risk of harm to patients who need care during this crisis.

On behalf of Oregon's 62 hospitals, the Oregon Association of Hospitals and Health Systems (OAHHS) pleads with you to put patients first and exercise your emergency powers to provide this needed flexibility. In addition, we seek critical funding support for changes that are necessary to enable our delivery system to meet this challenge. These initial, essential requests are designed to expand capacity (facilities and staffing), increase safety, decrease the spread of COVID-19, and improve processes to deliver appropriate care.

Our specific recommendations are detailed below and in the enclosed Memorandum.

1. Issue an executive order affirming the current state of emergency (see EO 21-15 which extended the state of emergency through December 31) and, additionally, as part of the state of emergency:
 - a. Waive the nurse staffing requirements for hospitals and skilled nursing facilities, including staff ratios. Hospitals would be allowed, but not required, to use the current staffing tools and committees during the emergency.
 - b. Waive the registry requirement in ORS 401.655 and permit health care providers who are licensed, certified, or otherwise authorized or permitted by another state to provide health care services in Oregon as if they were licensed, certified, or otherwise authorized in Oregon. In

addition, direct licensing boards to take any and all actions to streamline processes to the greatest extent possible.

c. Authorize persons who were previously (within 5 years) licensed, certified or otherwise authorized to provide health care services in Oregon and whose licenses were in good standing to provide those services without being registered.

2. Require health care workers to obtain COVID-19 vaccinations with appropriate legal exceptions, with no option for testing. We encourage a rapid decision to revise the current state policy on this issue because delay poses a direct threat to patients and hospitals will be forced to expend significant staff resources on operationalizing the testing requirement at a time when staff capacity is limited.

3. Ease capacity and patient movement through appropriate levels of care by making the changes listed on the enclosed Memorandum. Some of these changes could be made by OHA in its capacity as the administrator of Medicaid, while others relate to discharge planning.

4. Provide needed funding for childcare, retention of personnel, housing for short-term patient discharges, crisis staffing teams, and other key initiatives detailed in the enclosed Memorandum.

5. Support changes to data collection processes to improve crisis management and planning.

6. Work with hospitals and, if needed, the federal government, to support appropriate use of telehealth, urgent care and non-urgent care sites, rather than the emergency departments which are overwhelmed.

7. For visitors and support persons in hospitals, permit facility flexibility to determine safety precautions based on community conditions and infection control protocols.

8. Provide liability protection to health care workers and hospitals during this emergency period.

We urge you to act now to enable hospitals to better prepare for what may be the most difficult phase of the COVID-19 pandemic yet. We are ready to support you and your team in enacting these changes through your executive powers, administrative rule, or a special legislative session. We need action now. Please let us know if you would like to discuss these requests further. My team will reach out to your team for continued updates on these requests.

Sincerely,



Becky Hultberg, President & CEO
Oregon Association of Hospitals and Health Systems

TO: Governor Kate Brown
FROM: Oregon Association of Hospitals and Health Systems
DATE: August 12, 2021
SUBJECT: **Recommendations to facilitate hospitals' response to COVID-19 delta variant**

This memorandum describes action items that OAHHS requests so that hospitals may better serve patients and meet the demands of the surging pandemic. We understand OHA has also been working on action items, and OAHHS supports OHA initiatives that are consistent with these requests. We have provided feedback on some of OHA's action items. Due to the length of this request, we have identified the highest priority items by marking them in italics.

1. Increase Patient Safety and Slow the Spread of COVID

- a. *Replace the existing vaccination and testing rule for healthcare providers and healthcare staff (OAR 333-019-1010) to require full vaccination against COVID-19 subject to appropriate legal exceptions, with no option for testing.*
- b. Allow facility flexibility for visitor and support person infection control measures.

2. Expanding Capacity Through Staffing Ratio Flexibility

- a. *Nursing Facilities: increase staffing ratios.*
- b. *Hospitals: Permit, but not require, compliance with current hospital nurse staffing laws.*

3. Removing Barriers to Serving Patients at Appropriate Levels of Care; Improve Discharge Mechanisms and Continuity of Care

OAHHS supports these initiatives proposed by OHA:

- a. *Streamline Medicaid eligibility processes and provide direction to local Aging and People with Disabilities offices to ensure no delays*
- b. Update OHA guidance for Transfer of Hospital Patients to Long-term Care Facilities
- c. Facilitate regional cross-sectional discharge support teams
- d. *Pause prior authorizations for skilled nursing care for Medicaid; work with DCBS and CMS to expedite or remove prior authorization requirements and cover SNF stays regardless of contract status*
- e. Reinforce that LTC facilities and hospitals cannot base acceptance on payer status
- f. Maintain Decompression unit in Medford
- g. Funding for hospitals to purchase hotel rooms or other short-term placements when appropriate to facilitate patient discharge
- h. Additional sheltering options from ODHS to facilitate appropriate discharge
- i. For Nursing Facilities, seek CMS 1135 waiver to remove notice requirements of discharge or transfer for COVID-19 units and SNF step-down units, and remove 30-day notice of room or roommate change

OAHHS asks that you also address the following:

- a. Identify opportunities for other Decompression Facilities or COVID Surge facilities
- b. Ensure that waiting for COVID-19 test results does not cause discharge delays. We are hearing anecdotally that some tests take several days to return results. Consider use and/or expanded availability of rapid testing or a discharge + quarantine procedure while results are pending.
- c. Consider establishing long-term care units for COVID+ patients.
- d. In identifying opportunities for COVID surge facilities, consider whether there may be limitations on the availability of necessary equipment and how to ensure the right equipment is available in the right place at the right time.
- e. Enable Critical Access Hospitals to take (and be reimbursed for) Medicaid patients in their swing beds regardless of contract status and availability of a nearby SNF.

4. Retain, Support and Increase Available Staff

OAHHS supports these initiatives proposed by OHA:

- a. Staff growth and retention bonuses for direct care SNF staff
- b. *Discharge incentive payments for community-based care*
- c. *Funding for hospital discharge support for non-Medicaid patients at AAA offices*
- d. Grants for childcare assistance to remove this barrier to workforce re-entry
- e. Recruit-back home care workers and personal support workers
- f. Crisis incentive payments for residential facilities
- g. Public health workforce incentives
- h. Secure contracted nursing crisis staffing teams
- i. On-call stipends and childcare assistance funds for CNAs in LTC facilities
- j. National Guard deployment (in process)
- k. *Streamlining nurse and other staff licensing process to reduce delays in background checks and onboarding (in process)*
- l. Secure 1135 waiver for nursing facilities to:
 - i. *Allow CNA students to work under nurse supervision in facilities that are banned from doing so*
 - ii. *Allow personal care assistants to work under the authorized duties assigned by the facility*
 - iii. *Direct ODHS to lift ban on CNA nursing training due to penalty/violation, where state approval is allowed*

OAHHS asks that you also address the following:

- a. *Permit health care providers who are licensed, certified or otherwise authorized or permitted by another state to provide health care services in Oregon as if they were licensed, certified or otherwise authorized in Oregon.*
- b. *Authorize persons who were previously (within 5 years) licensed, certified or otherwise authorized to provide health care services in Oregon to provide services.*

- c. *Expedite any required licensure process.*
- d. Consider that money alone may be insufficient to address childcare barriers due to the lack of childcare provider/facility availability. Consider setting up new facilities, recruiting more providers, and/or facilitating the placement of children in existing care openings.
- e. Consider whether tools like on-call stipends and childcare assistance could be deployed to other staff groups.

5. Data Collection and Information Sharing

OAHHS supports these initiatives proposed by OHA:

- a. Hospitals report aggregate discharge delay data to OHA for analysis
- b. Nursing Facilities report current bed availability, including beds unavailable due to staffing constraints
- c. Publish LTC dashboard to track vaccination rates of residents and staff

6. Other Hospital Capacity Tools

OAHHS supports these initiatives proposed by OHA:

- a. Change to support management of trauma centers
- b. Create Medicaid payment structure for transferring patients from Level 1 trauma centers back to regional hospital for further treatment and recovery

OAHHS asks that you also address the following:

- a. Work with hospitals and, if needed, the federal government, to support appropriate use of telehealth, urgent care, and non-urgent care sites rather than emergency departments, which are overwhelmed.
- b. Allow hospitals to direct or relocate a patient from the emergency department, as appropriate and with as much flexibility as possible, pursuant to a State emergency preparedness plan and/or State pandemic preparedness plan.