



Nov. 6, 2009

HEALTH UPDATE

Governor Issues Executive Order Suspending Licensed Bed Limit Requirements For Hospitals and Health-Care Facilities

Due to the current H1N1 pandemic emergency, Governor John Hoeven has signed an executive order allowing licensed hospitals and other health-care facilities the ability to request suspension of licensed bed requirements. Under the order, the hospital or other health-care facility must reach the limit of its bed capacity because of H1N1 virus cases before requesting a waiver and is subject to temporary emergency requirements and quality of care standards established by the State Health Officer or his designee.

All requests for waivers must be made through the North Dakota Department of Health Operators Center by calling 701.328.1326.

It is important for facilities to note that they also must file an 1135 waiver with the Centers for Medicare and Medicaid Services (CMS) in order to receive financial reimbursement. CMS has indicated that waivers permitted under the section 1135 authority do not include waivers that are anticipated for a later date and are not actually needed at the time of the provider's request. Therefore, it is important to identify the current need as it relates to H1N1 in requests submitted to CMS. Requests for North Dakota should be submitted directly to CMS at ROSFOSO@cms.hhs.gov. When filing that application with CMS, the Department of Health asks that you copy Darleen Bartz, section chief of the Health Resources Section, at dbartz@nd.gov.

A copy of the executive order follows on the next page.

Categories of Health Alert messages:

- *Health Alert conveys the highest level of importance; warrants immediate action or attention.*
- *Health Advisory provides important information for a specific incident or situation; may not require immediate action.*
- *Health Update provides updated information regarding an incident or situation; no immediate action necessary.*
- *Health Information provides general information that is not necessarily considered to be of an emergent nature.*

This message is being sent to local public health units, clinics, hospitals, physicians, tribal health, North Dakota Nurses Association, North Dakota Long Term Care Association, North Dakota Healthcare Association, North Dakota Medical Association, and hospital public information officers.



— State of —
North Dakota
Office of the Governor

John Hoeven
Governor

EXECUTIVE ORDER 2009-17

WHEREAS, On October 24, 2009, President Obama signed a proclamation declaring the 2009 H1N1 influenza pandemic a National Emergency; and

WHEREAS, On October 27, 2009, Secretary Kathleen Sebelius issued a Section 1135 waiver lifting certain requirements of 42 U.S.C. § 1320b-5, the Social Security Act; and

WHEREAS, as a State we have prepared at all levels of government and as individuals and communities we have taken steps to address the emerging 2009 H1N1 pandemic, the pandemic continues to evolve; and

WHEREAS, the potential exists for the pandemic to overburden health care resources in some individual communities; and

WHEREAS, it may be necessary to utilize unlicensed beds beyond the licensed capacity of hospitals and other facilities, and it may be necessary to utilize unlicensed hospitals, long-term care facilities, and other facilities during this emergency; and

WHEREAS, based upon these factors, actions are necessary to address threats to public health and safety, and continue appropriate responses to the H1N1 influenza pandemic.

NOW, THEREFORE, I find an emergency exists and order suspension of the licensed bed limit requirements of N.D.C.C. § 23-16-03, N.D.C.C. § 23-16-04, and N.D.C.C. § 23-16-05, relating to licensing hospitals and other health care facilities as applied to any hospital or facility in North Dakota licensed under N.D.C.C. Chapter 23-16 as deemed necessary for certain hospitals and health care facilities determined by the State Health Officer or his designee. The hospital or facility must have reached the limit of its bed capacity because of H1N1 virus cases, and is subject to temporary emergency requirements and quality of care standards established by the State Health Officer or his designee.

This order is issued upon the following basis and for the following reasons:

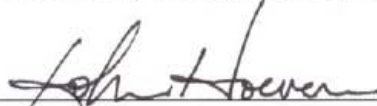
1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.

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2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code.
3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.

This Executive Order shall be effective immediately and remain in effect for the duration of the Presidential Emergency Declaration and federal 1135 waiver. Furthermore, this Order is effective only for a hospital or health care facility for the duration of the 1135 waiver granted by the federal Department of Health and Human Services to the local hospital or health care facility.

Executed at Bismarck, North Dakota, this 6th day of November 2009.



John Hoeven
Governor

ATTEST:



Secretary of State

Deputy