



The Chehardy Sherman Williams Healthcare Practice Group is constantly monitoring the way the COVID-19 Pandemic is affecting the industry.

Louisiana Healthcare Providers Can Resume “Time Sensitive” Medical & Surgical Procedures On April 27, 2020



Order Provides Additional Guidance for Other Healthcare Services

On Monday, April 20, 2020, the Louisiana Department of Health released [Healthcare Facility Order Notice #2020-COVID19-ALL-010](#) (“Order”). This new Order, which will go into effect at 12:01a.m. on Monday, April 27, 2020, supersedes all prior orders and adds an additional method for providers to resume medical and surgical procedures.

Medical and Surgical Procedures

Prior to this Order, medical or surgical procedures were only allowed under the following two (2) conditions:

1. In order to treat an emergency medical condition, which is defined as a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain, psychiatric disturbances and/or symptoms of substance abuse) such that the absence of immediate medical attention could reasonably be expected to result in:
 - Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy; or
 - Serious impairment to bodily functions; or
 - Serious dysfunction of bodily organs.

-OR-

2. The medical or surgical procedure will avoid further harms from an underlying condition or disease.

***Subscribe to our
newsletter for more
updates:***

WWW.CHEHARDY.COM

Now, pursuant to this Order, a third condition has been added, titled “Time-Sensitive Medical Conditions,” which allows medical and surgical procedures to treat time-sensitive medical conditions, provided that the facility and/or healthcare provider ensure that each of the following conditions / requirements are met.

The term “time-sensitive medical conditions” has not been defined, but it was stated in the press conference on April 20, 2020, that it is at the provider’s discretion to determine what is considered a “time sensitive medical condition.” Therefore, it will be important to document the condition and why the provider believes that it is a "time sensitive medical condition."

If each of the following conditions/requirements are not met, then the facility/healthcare provider shall not perform any medical or surgical procedures to treat time-sensitive medical conditions:

1. Each patient undergoing such a medical or surgical procedure shall undergo an appropriate pre-operative clinical evaluation to minimize the risk that the patient has COVID-19; such clinical evaluation shall include appropriate COVID-19 testing, if available;
2. Each patient undergoing such a medical or surgical procedure shall be required to comply with strict social distancing measures from the time of the pre-operative clinical evaluation through the day of the surgery;
3. The facility and healthcare provider shall have an adequate and appropriate supply of personal protective equipment (PPE) to treat the patient, as well as treat any other patient, including COVID-19 positive patients, in the facility. At no time shall a facility’s PPE supply to treat COVID-19 positive patient fall below a 5-day supply on hand at the facility. The facility shall not be dependent on the state or other governmental body to supply the 5-day requirement;
4. There is an adequate supply chain to the facility/healthcare provider for medical equipment, supplies, and medications;
5. The facility/healthcare provider has adequate medical staff, including surgical, surgical support, recovery, and nursing staff, to meet the needs of all patients; and
6. The facility/healthcare provider shall conduct constant monitoring of hospital, regional, and state resources, as well as ESF-8 reports, indicating Coronavirus burden of disease and impact.

Medical and surgical procedures to treat time-sensitive medical conditions shall be immediately discontinued upon notice by the State Health Officer, who may consider any of the following criteria in making a decision to halt or discontinue medical and surgical procedures to treat time-sensitive medical conditions:

1. Statewide or region-wide ventilator capacity;
2. Statewide or region-wide ICU bed availability;
3. Statewide or region-wide medical surgical bed availability;
4. The number of new admit COVID-19 cases; and
5. Any other criteria that the State Health Officer deems appropriate.

Any medical or surgical procedure in which a delay will not adversely affect the particular patient or the underlying disease process should continue to be postponed.

Lastly, each facility or healthcare provider that performs any medical or surgical procedure shall be required to contact the patient within 10-14 days after the procedure to determine whether the patient has signs/symptoms of COVID-19 or has tested positive for COVID-19 since the procedure. Such contact shall be documented in the patient’s medical record. The facility or healthcare provider shall make recommendations to the patient who has signs/symptoms of COVID-19, including appropriate testing. Further, the facility or healthcare provider shall immediately inform the Office of Public Health via electronic notification, if any such patient has tested positive for COVID-19.

Healthcare Services Other Than Medical and Surgical Procedures

In addition to the guidance provided above for medical and surgical procedures, this Order also gives additional guidance for other healthcare services, such as the following:

- All healthcare providers shall offer – when medically appropriate and when the same standard of care can be met – a telehealth mode of delivery, rather than an in-person visit. Providers shall make a determination about the appropriateness of telehealth on a case-by-case basis. Providers may encounter legitimate and valid barriers to telehealth delivery and may not be able to shift all services to telehealth. Providers acting in good faith shall not be found to be in violation of this directive.
- Any in-person healthcare services shall be postponed when patient outcomes would not be compromised. Providers shall use their best medical judgment within the scope of their license to make this determination. Providers shall consider the entire clinical picture when determining if a service can be safely postponed, including the consequences to the patient of postponement and the consequences to the healthcare system. Providers acting in good faith shall not be found to be in violation of this directive.
- Each facility or healthcare provider that performs any other healthcare service (other than a medical or surgical procedure or a dental procedure) shall be required to contact the patient within 10-14 days after the procedure to determine whether the patient has signs/symptoms of COVID-19 or has tested positive for COVID-19 since the procedure. Such contact shall be documented in the patient’s medical record. The facility or healthcare provider shall make recommendations to the patient who has signs/symptoms of COVID-19, including appropriate testing. Further, the facility or healthcare provider shall immediately inform the Office of Public Health, via electronic notification, if any such patient has tested positive for COVID-19.



Should you have any specific questions or needs, please contact the
Chehardy Sherman Williams Healthcare Team
~ David Sherman, George Mueller, Adam Stumpf, Chris Martin, Adrienne
Ellis & Rory Bellina