



NC DEPARTMENT OF
**HEALTH AND
HUMAN SERVICES**

ROY COOPER • Governor

KODY H. KINSLEY • Secretary

MARK PAYNE • Director, Division of Health Service Regulation

MEMORANDUM

TO: North Carolina Hospital CEOs

FROM: Mark Payne *mark*

DATE: October 2, 2024

RE: Requests for Temporary Waiver of 10A N.C.A.C. 13B .3111 for Hospitals Providing Care to Patients Impacted by Hurricane Helene

To facilitate the care of patients impacted by Hurricane Helene, pursuant to G.S. § 131E-84, the North Carolina Department of Health and Human Services' Division of Health Service Regulation (DHSR) will temporarily waive the limitations found in 10A N.C.A.C. 13B. 3111 (for example, the limitation on increasing beds to 10% above licensed bed capacity when census exceeds 90%, the limitation on utilization of observation beds only, and the limitation for a period not greater than 60 consecutive days) for hospitals providing care to patients impacted by Hurricane Helene to the extent necessary to allow a hospital to provide services to adequately care for patients based on the following parameters:

1. A hospital may temporarily increase its acute care bed capacity over its licensed bed capacity and temporarily relocate existing licensed acute care beds into physical space that meets federal life safety requirements, unless any of those requirements are waived by the Centers for Medicare and Medicaid Services (CMS) for inpatients, for the purposes of accommodating patients receiving services and treatments for the period of consecutive days specified in the approval of the DHSR. Such physical space may include clinical or non-clinical space within the hospital facility, including space used for other categories of licensed beds, or in other facilities or space operated as a campus of the hospital.
2. DHSR may approve a temporary increase in licensed bed capacity or temporary relocation of inpatient beds if:
 - a. the hospital has submitted such request in writing, including, but not limited to, the number of additional beds, description of the physical space to be utilized and how it will be utilized, and the anticipated duration;

NC DEPARTMENT OF HEALTH AND HUMAN SERVICES • DIVISION OF HEALTH SERVICE REGULATION

OFFICE OF THE DIRECTOR

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- b. DHSR has determined that the request has met the requirements of paragraph 1 above; and
- c. the hospital administrator provides an explanation and certifies that:
 - i. the increase in bed capacity is necessary for public health and safety in the geographic area served;
 - ii. physical facilities to be used are adequate to safeguard the health and safety of patients, whether designated observation status or inpatient, and will be operated in accordance with CMS hospital conditions of participation and any applicable temporary CMS requirements for patient care; and
 - iii. all hospital patients will receive appropriate care and their health and safety safeguarded.

A temporary waiver of the limitations found in 10A N.C.A.C. 13B. 3111 will be revoked if DHSR determines that these conditions are not met or safeguards are not adequate to safeguard the health and safety of patients.

A temporary waiver of the limitations found in 10A N.C.A.C. 13B. 3111 may remain in effect for the period of consecutive days specified in the approval of the DHSR unless revoked by DHSR in its sole discretion or seven (7) days after the expiration of the State of Emergency declared by Executive Order 315 issued on September 25, 2024.

A hospital may address its request to temporarily increase its acute care bed capacity to adequately care for patients to DHSR's Acute and Home Care Licensure and Certification Section Chief, Azzie Conley, via email (azzie.conley@dhhs.nc.gov).