



State of New Jersey  
DEPARTMENT OF HEALTH

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Acting Commissioner

To: Acute Care General Hospitals Licensed Pursuant to N.J.A.C. 8:43G

From: Michael J. Kennedy, J.D. *MJK*  
Executive Director, Division of Certificate of Need and Licensing

Date: September 26, 2023

Re: Hospital Operations During a Temporary Surge in Demand

This memo is intended to clarify the Department of Health's (Department) policy and an Acute Care General Hospital's responsibility when confronted with an unanticipated, temporary surge or increase in demand for a licensed bed type maintained by the hospital.

When an unanticipated surge in demand for a licensed bed service occurs, a hospital may exceed its bed capacity for that service without first seeking a waiver from the Department. However, no later than the next business day, the Hospital must notify the Department and request a retroactive waiver. Even when faced with a surge in demand, a hospital may not offer a service for which it has not been previously licensed.

As provided in N.J.A.C. 8:43G-2.8(c) the waiver must address:

1. The nature of the waiver requested;
2. The specific standards for which a waiver is requested;
3. Reasons for requesting a waiver, including a statement of the type and degree of hardship that would result to the facility upon full compliance;
4. An alternative proposal which would ensure patient safety; and
5. Documentation to support the waiver application.

The Department's waiver application form (CN-28) can be found at [www.nj.gov/health/forms/cn-28.pdf](http://www.nj.gov/health/forms/cn-28.pdf).

Questions regarding this matter should be directed to Jacqueline Chadwick, Program Manager, Certificate of Need and Healthcare Facility Licensure Program at [Jacqueline.Chadwick@doh.nj.gov](mailto:Jacqueline.Chadwick@doh.nj.gov).