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## **Factsheet: State action related to delay and resumption of “elective” procedures during COVID-19 pandemic**

### **State directives ordering a delay in elective procedures and related guidance from the federal government and the American College of Surgeons (ACS)**

#### **State directives**

As a result of the COVID-19 pandemic, many states ordered health care facilities, physicians and other health care providers and professionals to delay elective or non-urgent procedures in order to conserve personal protective equipment (PPE) and free up staff and facilities for COVID-19 patients. Some of these orders remain in effect. One of the challenging issues for physicians and facilities has been distinguishing between procedures that need to be postponed from those that they need to provide. Although this resource does not discuss dental services, many states ordered certain dental procedures to be delayed.

#### **Guidelines from the Centers for Medicare and Medicaid Services (CMS), the Centers for Disease Control and Prevention (CDC) and ACS**

On March 18, 2020, the CMS released recommendations concerning the delay of elective procedures, [“Adult Elective Surgeries, Non-Essential Medical, Surgical, and Dental Procedures During COVID-19 Response.”](#) The recommendations “outline factors that should be considered for postponing elective surgeries, and non-essential medical, surgical, dental procedures, and include patient risk factors, availability of beds, staff and PPE, and the urgency of the procedure.” CMS also states that, “The decision about proceeding with non-essential surgeries and procedures will be made at the local level by the clinician, patient, hospital, and state and local health departments.”

The ACS recommends that surgeons, “curtail the performance of ‘elective’ surgical procedures.” The ACS has published extensive guidelines entitled, [“COVID-19: Elective Case Triage Guidelines for Surgical Care,”](#) in order to help surgeons identify which procedures should be curtailed. This resource incorporates guidelines from various specialties, facilities and thought leaders to help inform the decision making occurring at the local level.

The CDC also provides a wealth of guidance, e.g., “[Outpatient and Ambulatory Care Settings: Responding to Community Transmission of COVID-19 in the United States](#).” The CDC recommended delaying inpatient and outpatient elective surgical and procedural cases.

## State action referencing CMS or ACS guidance

States vary significantly with regard to the amount of guidance they provide concerning how to distinguish between services that should be delayed and those that should not. Some state laws and directives specifically reference the CMS and ACS guidelines, e.g., recently-enacted Kentucky [S.B. 150](#), and Alaska [Health Mandate 015](#). **Regardless of the specifics that states provide, physicians should consult the recommendations from CMS, the CDC and ACS to aid in decision making.**

## What about Emergency Medical Treatment and Active Labor Act (EMTALA)?

Obviously, the EMTALA definition of “emergency medical condition,” both under the [federal regulations](#) and CMS [interpretive guidelines](#), may also be useful. CMS has also issued a [memorandum](#), which, “conveys information in response to inquiries from hospitals and critical access hospitals concerning implications of COVID-19 for their compliance with EMTALA.” It is notable that the Louisiana Department of Health has issued guidance entitled, “[Emergency Medical Treatment and Labor Act \(EMTALA\) Requirements and Implications Related to Coronavirus Disease 2019 \(COVID-19\) \(Revised\)](#).”

## Recent guidance from CMS and ACS and relaxation of some states’ outright bans on elective surgeries or procedures

### Recent recommendations from CMS

On April 19, CMS issued, “[Recommendations Re-opening Facilities to Provide Non-emergent Non-COVID-19 Healthcare: Phase I](#)” (Recommendations). The Recommendations state that, because the COVID-19 crisis in some states and regions of the U.S. is starting to stabilize, CMS released the Recommendations to provide guidance on furnishing essential non-COVID-19 care to patients without symptoms of COVID-19 in regions with low and stable incidence of COVID-19. The new Recommendations are specifically targeted to communities that are in Phase 1 of the “Guidelines for Opening Up America Again” (Phase 1) with low incidence or relatively low and stable incidence of COVID-19 cases. The Recommendations update CMS’ previous March 18, 2020, guidance (see above) on limiting elective or non-urgent surgeries and medical procedures. The new Recommendations envision a gradual transition and encourage health care providers to coordinate with local and state public health officials, and to review the availability of personal PPE and other supplies, workforce availability, facility readiness and testing capacity when making the decision to re-start or increase in-person care.

Prior to entering Phase 1, states or regions need to pass gating criteria regarding symptoms, cases and hospitals. The Recommendations are not meant to be implemented by every state, county or city at this time. Governors and local leaders ultimately need to make decisions on whether they are appropriate for their communities.

Healthcare facilities and providers that are in areas still seeing a higher number of COVID-19 cases are encouraged to continue following the March 18, 2020.

## Recent ACS guidance

On April 17, the ACS issued a resource entitled, “[Local Resumption of Elective Surgery Guidance](#).” This resource recognizes that, while elective surgery has been largely postponed and stopped in many parts of the U.S. because of the COVID-19 pandemic, “As the COVID-19 rates have already reached their peaks, or will do so over the next week or two (depending on location), the current focus for an increasing number of facilities is toward “ramping up” to prepare for elective operations.” The document “offers a set of principles and issues to help local facilities plan for resumption of elective surgical care.” Also, on April 17, the ACS, American Society of Anesthesiologists Association of periOperative Registered Nurses and American Hospital Association issued a “[Joint Statement: Roadmap for Resuming Elective Surgery after COVID-19 Pandemic](#)” (Statement). The Statement provides, “a list of principles and considerations to guide physicians, nurses and local facilities in their resumption of care for operating rooms and all procedural areas.” **Again, regardless of the guidance that states may provide concerning the resumption of elective or non-urgent services or procedures, physicians who are considering starting up such services or procedures should consult this recent guidance from CMS, ACS, and any applicable recommendations from the CDC.**

## Information in the accompanying charts

The state activities in the attached Chart I , Chart IIA and Chart IIB provide specific language used by states that require physicians, health care facilities and others to delay, and, as applicable, resume elective surgeries and procedures. *Chart I describes orders and directives through which states mandated delays in elective procedures. Charts IIA and IIB describe the steps that those states have taken to resume the provision of elective procedures.* (Chart IIA covers Alabama to Massachusetts and Chart IIB covers Nebraska to West Virginia).

In some cases, the charts do not capture all the guidance that states have released, e.g., Virginia has adopted a detailed frequently asked question (FAQ) document describing conditions that must be satisfied if elective procedures are to resume. The text of the FAQ is not included in Chart IIB. Further, the charts typically do not capture the entire text of state directives, orders and guidance, but only sections that appeared to be of most interest to physicians and medical associations, so the reader is urged to always consult the original order, directive, guidance, or other source. (See the disclaimer at the bottom of this Fact Sheet).

## Hot topic: Best practices and liability concerns

### Best practices

The CDC has extensive information and recommendations that offer physicians [guidance](#) with respect their practices. See, for example, the resources entitled, “[Interim Infection Prevention and Control Recommendations for Patients with Suspected or Confirmed Coronavirus Disease 2019 \(COVID-19\) in Healthcare Settings](#),” “[Healthcare Professional Preparedness Checklist For Transport and Arrival of Patients With Confirmed or Possible COVID-19](#)” and “[Interim Clinical Guidance for Management of Patients with Confirmed Coronavirus Disease \(COVID-19\)](#)”. The CDC has also issued a 62-page reopening [document](#) that includes recommendations on surveillance of COVID-19, healthcare system surveillance, guidance on infection control, contact tracing and testing usage (asymptomatic populations and serology), assessing surveillance and hospital gating indicators and setting specific guidance. These resources and more information can be accessed through <https://www.cdc.gov/coronavirus/2019-ncov/>.

With regard to the federation of medicine, several state medical associations and the American Medical Association (AMA) have developed detailed assistance for physicians reopening their practices.

- For example, the California Medical Association (CMA) has published, “[Best Practices for Reopening a Medical Practice](#).” This resource discusses topics such as: steps to take prior to reopening a practice; financial considerations; staffing considerations; and universal precautions for practices and facilities.
- The Colorado Medical Society has created a 12-page reopening [primer](#) for Colorado physicians.
- The Florida Medical Association has released a ten-page document entitled, “[Reopening Your Medical Practice: Primer for Florida Physicians](#).”
- The Indiana State Medical Association’s “Safe Return to Clinical Practice Recommendations” can be found [here](#).
- The Iowa Medical Society has developed a succinct two-page document entitled, “Resuming Elective Procedures [Checklist](#)” for its physicians.
- The Maryland State Medical Society has developed an eight-page practice reopening [guide](#), based in part on resources from the AMA, the Montgomery County Medical Society and the CMA.
- The Massachusetts Medical Society’s [11-page](#) document entitled, “Tips for Expanding Practice During COVID-19” (that includes the Massachusetts Department of Health’s Phase I Guidance for providers that are not acute care hospitals) covers issues such as: key steps to consider first; operations management; staff management and safety; general safety considerations; and financial management.
- The Michigan State Medical Society (MSMS) has created a detailed “[Safe Return to Practice Toolkit](#)” (Toolkit), in furtherance of recent Michigan executive orders. (See Chart IIA). The Toolkit contains: a document entitled, “COVID-19: Michigan Medical Practices Resuming Non-Essential Encounters and Procedures” that outlines precautions that physicians should take in their workplaces; model COVID-19 policies and procedures; a COVID-19 sample visitor screening policy; a sample facility entrance form; MSMS Workgroup Safe Practice Recommendations; a sample employee recall notice; steps for recalling employees to work; and a document entitled “Employer Plans (To-Do’s) for Reopening Operations.” Further, the MSMS also has the following [templates](#) for its physicians: COVID-19 Preparedness and Response Plan; Medical Practice Employee Screening Form; and Medical Practice Entrance Screening Policy.
- The Minnesota Medical Association (MMA) created a new initiative and statewide call to action: “[Practice Good Health](#).” The MMA’s goal in “Practice Good Health” is to provide the tools, resources and best practice guidelines needed to help physicians and Minnesota residents feel confident and supported to “Practice Good Health” today, tomorrow and into the future. The webpage contains sections covering COVID-19 care, getting care and physician care. “Practice Good Health” has many resources, including draft e-mail communications and social media content.
- The Medical Society of the State of New York (MSSNY) developed extensive guidance entitled, “[Interim Guidance for Reopening the Health Care System & Best Practices for Reopening from Covid-19](#),” with contributions from the CMA and MLMIC Insurance Company (MLMIC). The MSSNY website also contains a link to a seven-page [document](#) by MLMIC entitled, “Preparing for Post-COVID-19 Operations: Healthcare Practices,” which contains an extensive checklist covering a wide range of reopening issues that physicians need to address.
- The Pennsylvania Medical Society (PAMS) created a reopening [resource](#) using CMA’s work and adapting it to Pennsylvania. PAMS has also developed a [resource](#) for members developed by an outside law firm entitled, “Answering Physicians’ Frequently Asked Questions Related to COVID-19” that is designed to help physicians who are now facing new issues related to workplace and patient safety, medical liability, HIPAA requirements, and employment laws and regulations.
- The Ohio State Medical Association [developed](#) a draft letter and email that physicians can send to reassure their patients to reassure them that it is safe to see their physicians and sample social

- media posts and videos that can be shared with patients for the same purpose.
- Reopening and other COVID-19 support and guidance developed by the Texas Medical Association (TMA) may be accessed at <https://www.texmed.org/coronavirus/>. The TMA has created, among many other resources, a COVID-19 Social Medical Toolkit; customizable letters; and practice log forms—including a disinfectant log and a staff temperature log.
- The Utah Medical Association provides practice tips and links to resources [here](#).
- The Washington State Medical Association, in collaboration with the Washington Group Medical Management Association, developed a [checklist](#) that helps its physicians comply with the governor’s recent proclamation concerning the resumption of non-urgent services.

Finally, many other state medical associations, national medical specialty societies and national medical associations have developed guidance to help physicians reopen their practices. For example, the ACS recently released the, “[American College of Surgeons Post-COVID-19 Readiness Checklist for Resuming Surgery](#),” which is intended to help surgeons convey key information to their patients. Also, the AMA has created extensive tools to help physicians reopen their practices. Many medical association websites link to these tools and/or use these tools in providing reopening assistance to their physicians. This guidance can be accessed at: “[COVID-19: A physician practice guide to reopening](#).”

## Liability concerns

Postponing elective procedures may raise liability concerns. To help physicians, the AMA, along with the Medical Professional Liability Association (MPLA), published a resource entitled, “[COVID-19: Recommendations for Pursuing Liability Protections Through State Action](#).” This crucial resource identifies actions states have taken with respect to providing protection to those most in need, including physicians who are on the front lines providing care to COVID-19 patients; those who have shifted their practices to telemedicine; and those whose treatment decisions may have been based on government directives.

Some states have taken steps to protect physicians and health care providers from liability that apply in the context of state bans on elective or non-urgent surgeries or procedures. For example, recently enacted Wisconsin [A.B. 1038](#) appears to apply in this context as it states that:

Any health care professional, health care provider, or employee, agent, or contractor of a health care professional or health care provider is immune from civil liability for the death of or injury to any individual or any damages caused by actions or omissions that satisfy all of the following:

- The action or omission is committed while the professional, provider, employee, agent, or contractor is providing services during the state of emergency...or the 60 days following the date that the state of emergency terminates.

The actions or omissions relate to health services provided or not provided in good faith or are substantially consistent with any of the following:

- Any direction, guidance, recommendation, or other statement made by a federal, state, or local official to address or in response to the emergency or disaster.
- Any guidance published by the department of health services, the federal department of health and human services, or any divisions or agencies of the federal department of health and human services relied upon in good faith.
- The actions or omissions do not involve reckless or wanton conduct or intentional misconduct.

In addition to Wisconsin, Vermont [Executive Order No. 01-20-Addendum 9](#) provides another example, but is more specific to mandated delays or stoppages of elective procedures. The Vermont order, dated April 10, states, in part, that health care providers, facilities and volunteers, are immune from civil liability for any death, injury or loss resulting from COVID-19 related *emergency management services or response activities*, except in the case of willful misconduct or gross negligence. Specifically, the Vermont order states:

“Emergency management service or response activity,” includes, but may not be limited to:

- expedited postponement of non-essential adult elective surgery and medical and surgical procedures, including dental procedures, in the safest but most expedient way possible, as ordered by Addendum 3 of the Executive Order, if elective surgeries and medical and surgical procedures are performed at the health care facility or by the health care provider;
- cancelling or denying elective surgeries or procedures or routine care to the extent determined necessary for the health, safety and welfare of a patient or as necessary to respond to the COVID-19 outbreak;
- Redeployment or cross training of staff not typically assigned to such duties, to the extent necessary to respond to the COVID-19 outbreak;
- Planning, or enacting, crisis standard-of-care measures, including, but not limited to, modifying numbers of beds, preserving PPE, and triaging access to services or equipment as necessary to respond to the COVID-19 outbreak; and
- Reduced record-keeping to the extent necessary for health care providers to respond to the COVID-19 outbreak.

For health care volunteers, “emergency management services or response activities” also includes providing services, assistance, or support at a health care facility in response to the COVID-19 outbreak.

For more information, please contact Wes Cleveland, JD, Senior Attorney, AMA Advocacy Resource Center at [wes.cleveland@ama-assn.org](mailto:wes.cleveland@ama-assn.org).

***Disclaimer:*** *This is a living document. As new state directives are being published at a rapid pace, the chart will be updated on a regular basis but may be incomplete. The omission of information does not necessarily mean no action has occurred. Please feel free to forward information to fill any gaps you notice and always consult the original source for additional information.*

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## CHART I: ORDERS DELAYING ELECTIVE OR NON-URGENT PROCEDURES

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States	Directives	Specifics and Other Considerations
Alabama	<a href="#">Order by the State Health Officer</a> , dated March 19, states that “effective immediately, all elective dental and medical procedures shall be delayed.”	<ol style="list-style-type: none"> <li>(1) Dental, medical, or surgical procedures necessary to treat an emergency medical condition. For purposes of this order, “emergency medical condition” 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 by a person’s licensed medical provider to result in placing the health of the person in serious jeopardy or causing serious impairment to bodily functions or serious dysfunction of bodily organs.</li> <li>(2) Dental, medical, or surgical procedures necessary to avoid serious harm from an underlying condition or disease, or necessary as part of a patient’s ongoing and active treatment.</li> </ol>
Alaska	<a href="#">COVID-19 Health Mandate 005</a> : Elective Medical Procedures, issued by the governor, DHSS Commissioner, and CMO, dated March 19, 2020. The order states that “All patients, providers, hospitals and surgical centers are <b>required to postpone or cancel all non-urgent or elective procedures for three months</b> to decrease the overall impact on the Alaska health care structure and preserve personal protective equipment. This would	<ol style="list-style-type: none"> <li>(1) The order states that “Because the terms “non-urgent or elective” are not fully defined, the state recommends each hospital creates a physician task force that would be available to evaluate on a case-by-case basis and make a determination on borderline surgeries. This action is taken with the guidance from U.S. Surgeon General Jerome Adams and the American College of Surgeons: <a href="http://www.facs.org/about-ac/s/covid-19/information-for-surgeons">www.facs.org/about-ac/s/covid-19/information-for-surgeons</a> and <a href="http://www.facs.org/about-ac/s/covid-19/information-for-surgeons/triage">www.facs.org/about-ac/s/covid-19/information-for-surgeons/triage</a>.</li> <li>(2) Surgical cases coming through the emergency room or for an existing hospitalized patient.</li> </ol>

States	Directives	Specifics and Other Considerations
<p><b>Alaska (Cont.)</b></p>	<p>include pre-scheduled surgeries deemed non-essential.”</p> <p>On April 7, 2020, Health Mandate 005 was revised by <a href="#">Attachment C</a>, Entitled “Non-Urgent or Elective Procedures,” which states, in part, “Non-urgent or elective procedures include, but are not limited to, those identified by the American College of Surgeons, Elective Case Triage Guidelines for Surgical Care found at <a href="https://www.facs.org/covid-19/clinical-guidance/elective-case">https://www.facs.org/covid-19/clinical-guidance/elective-case</a>.”</p>	
<p><b>Arizona</b></p>	<p><a href="#">Executive Order 2020-10</a>, dated March 19, 2020, states that “Beginning on Saturday, March 21, at 8:00 AM, all on-essential or elective surgeries, including elective dental surgeries, that utilize personal protective equipment or ventilators shall not be performed at any licensed healthcare facility or by any licensed healthcare provider in the State of Arizona.</p>	<p>(1) “A non-essential or elective surgery” means a surgery that can be delayed without undue risk to the current or future health of a patient.</p> <p>(2) A surgery “should not be deemed non-essential or elective if it would threaten the patient’s life, threaten permanent dysfunction or impairment of any body part, risk metastasis or progression of staging, or require the patient to remain hospitalized if the surgery was delayed.”</p> <p>(3) A licensed medical professional shall use their best judgment in determining whether a surgery is non-essential or elective. In making that decision, the medical professional shall consider the health and age of the patient, especially given the risks of concurrent COVID-19 infection during recovery and the urgency of the surgery.</p> <p>(A) Exceptions to this directive should be made in the following circumstances:</p> <ol style="list-style-type: none"> <li>(1) If there is a threat to the patient’s life if the procedure is not performed;</li> <li>(2) If there is a threat of permanent dysfunction of an extremity or organ system if the surgery is not done;</li> <li>(3) If there is a risk of metastasis or progression of staging of a disease or condition if surgery is not performed; and</li> <li>(4) If there is a risk that the patient’s condition will rapidly deteriorate if surgery is not done, and there is a threat to life or an extremity or organ system or a threat of permanent dysfunction or disability.</li> </ol>



States	Directives	Specifics and Other Considerations
<p><b>Arkansas</b></p>	<p>On April 3, 2020, the Arkansas Department of Health issued a <a href="#">directive</a> stating that “The following mandatory actions can preserve staff, personal protective equipment (PPE), and patient care supplies; ensure staff and patient safety; and expand available hospital capacity during the COVID-19 pandemic.</p> <ol style="list-style-type: none"> <li>1) Procedures, testing, and office visits that can be safely postponed shall be rescheduled to an appropriate future date;</li> <li>2) Routine dental and eye care visits shall be postponed;</li> <li>3) Emergent, urgent and care designated as an exception below will continue.</li> <li>4) Small rural hospitals under 60 beds and critical access hospitals, though strongly advised to follow this directive to maximize resources, are excluded from this directive.</li> </ol> <p>On April 13, the Arkansas governor issued <a href="#">Executive Order</a> 20-18 amending EO 20-03 that declared an emergency in Arkansas.</p>	<p>(A) EO 20-18 temporarily orders, in part, a suspension of Arkansas law necessary to allow emergency medical treatment protocol development or modification to occur solely with the approval of the Arkansas Department of Health, which may include but is not limited to:</p> <ol style="list-style-type: none"> <li>(1) Triage, diagnostic testing, and/or treatment to patients with known or suspected COVID-19;</li> <li>(2) Services provided in response to personnel shortages;</li> <li>(3) Cancelling, postponing, or denying elective surgeries or procedures or other routine care;</li> <li>(4) Redeploying or cross training staff not typically assigned to such duties, to the extent necessary to respond to the COVID-19 outbreak;</li> <li>(5) Planning to or enacting crisis standards of care measures, such as modifying numbers of beds, preserving PPE, and triaging access to services or equipment;</li> <li>(6) Reducing recordkeeping requirements to the extent necessary for health care providers and facilities to perform tasks as may be necessary to respond to the COVID-19 outbreak.</li> </ol> <p>(B) EO 20-18 temporarily orders, in part, a suspension of Arkansas law necessary to provide immunity from liability to the following emergency responders, whether employed by the state or federal government, a private entity, or non-profit entity, for any injury or death alleged to have been sustained directly as a result of an act or omission by such medical professional in the course of providing medical services in support of the state’s response to the COVID-19 outbreak or the implementation of measures to control the causes of the COVID-19 epidemic: (1) physicians; (2) physician assistants; (3) specialist assistants; (4) nurse practitioners; (5) licensed registered nurses; and (6) licensed practical nurses.</p> <p>(C) A grant of immunity from liability under (C) above will not be extended to an emergency responder, who as a result of his or her action or omission, causes an injury or death due to: (1) acting outside the scope of his or her practice unless he or she has been redeployed as a result of (B)(4) above; or (2) acting in gross negligence, willful misconduct, or bad faith.</p>

States	Directives	Specifics and Other Considerations
<b>Colorado</b>	<p>On March 19, the Colorado governor issued <a href="#">EO 2020 009</a> stating that “all hospitals, outpatient surgeries, and procedure providers are directed to cease all elective and non-essential surgeries...from March 23 to April 14, with the exception of rural and critical access hospitals. Rural and critical access hospitals are strongly advised to follow this guidance but are not mandated to do so under this order.”</p> <p>On April 6, the Colorado governor issued <a href="#">Executive Order D 2020 027</a>, which extended EO 2020 009 until April 26.</p>	<p>(A) A voluntary or elective surgery or procedure means that the surgery can be delayed for a minimum of three months without undue risk to the current or future health of the patient as determined by the guidelines developed by the hospital, surgical center or other treating medical facility.</p> <p>(B) Surgeries or procedures, whether medical, dental, or veterinary, may proceed if:</p> <ol style="list-style-type: none"> <li>(1) There is a threat to the patient’s life if the surgery or procedure is not performed;</li> <li>(2) There is a threat of permanent dysfunction of an extremity or organ system if the surgery or procedure is not performed;</li> <li>(3) There is a risk of metastasis or progression of staging of a disease or condition if the surgery or procedure is not performed; or</li> <li>(4) there is a risk that the patient's condition will rapidly deteriorate if the surgery or procedure is not performed and there is a threat to life, or to an extremity or organ system, or of permanent dysfunction or disability.</li> </ol> <p>Each hospital and outpatient surgery or procedure provider shall establish guidelines to ensure adherence to the principles outlined in (A) and (B). In establishing such guidelines, the hospital, surgical center or procedure provider shall include a process for consultation with the treating provider about a designation that the procedure is elective or non-essential under the guidelines.</p>
<b>Florida</b>	<p><a href="#">Executive Order 20-72</a>, March 20, 2020. The order states that “All hospitals, ambulatory surgical centers, office surgery centers, dental orthodontic and endodontic offices, and other health care practitioners’ offices in the State of Florida are prohibited from providing any medically unnecessary, non-urgent, or non-emergency procedure or surgery which, if delayed, does not place a patient’s immediate health, safety, or well-being at risk, or will, if delayed, not contribute to the worsening of a serious of life-threatening medical condition.</p>	<ol style="list-style-type: none"> <li>(1) As articulated in the CMS recommendation, examples of procedures to delay may include, but are not limited to, some endoscopy, most cataract and lens surgeries, non-urgent spine and orthopedic procedures, and cosmetic procedures.</li> <li>(2) As articulated in the CMS recommendation, permissible procedures include, but may not be limited to, removal of cancerous tumors, transplants, limb-threatening vascular surgeries, trauma-related procedures, and dental care related to the relief of pain and management of infection.</li> </ol>

States	Directives	Specifics and Other Considerations
<b>Florida (Cont.)</b>	Accordingly, all health care practitioners licensed in the State of Florida, including dentists, shall immediately cease performing these elective services.”	
<b>Illinois</b>	The Illinois Department of Public Health has issued guidance entitled “COVID-19 - Elective Surgical Procedure Guidance.” This guidance states that “The Illinois Department of Public Health is recommending cancelling ALL elective surgeries and procedures to immediately decompress the healthcare system during the COVID-19 response that are considered non-emergent or elective.”	The guidance states that “‘Elective’ is defined as those procedures that are pre-planned by both the patient and the physician that are advantageous to the patient but are NOT urgent or emergent. Physicians should use their medical judgement to determine the need for surgery.”
<b>Iowa</b>	<a href="#">Proclamation of Disaster Emergency</a> , dated March 26, 2020. This proclamation states that “All nonessential or elective procedures that utilize personal protective equipment must not be conducted in any hospital, outpatient surgery provider, or outpatient procedure provider, whether public, private, or nonprofit.” This ban remains in effect until at least April 30.	<p>(A) A nonessential surgery or procedure is one that can be delayed without undue risk to the current or future health of a patient, considering all appropriate factors, including but not limited to any:</p> <ul style="list-style-type: none"> <li>(1) Threat to the patient’s life if the surgery or procedure is not performed;</li> <li>(2) Threat of permanent dysfunction of an extremity or organ system;</li> <li>(3) Risk of metastasis or progression of staging; and</li> <li>(4) Risk of rapidly worsening to severe symptoms.</li> </ul> <p>Each hospital, outpatient surgery provider, and outpatient procedure provider shall establish an internal governance structure to ensure that the principles outlined above are followed.</p>
<b>Kentucky</b>	The Cabinet for Health and Family Services (Cabinet) issued a <a href="#">directive</a> dated March 18, 2020, stating that “healthcare providers in the Commonwealth are hereby directed by the Cabinet...to cancel all procedures that in the opinion of a physician the delay will not cause harm to the patient or negatively affect the patient’s life	<p>(A) The March 23 directive states, in part, that Commonwealth of Kentucky relies upon licensed healthcare professionals within the state to exercise their best clinical judgment in implementing the restriction.</p> <p>(B) To assist licensed healthcare professionals in the exercise of their judgment, the following guidelines are offered:</p> <ul style="list-style-type: none"> <li>(1) Emergent – Any healthcare service that, were it not provided, is at a high risk of resulting in serious and/or irreparable harm to a patient if not provided within 24 hours.</li> </ul>

States	Directives	Specifics and Other Considerations
<p><b>Kentucky (Cont.)</b></p>	<p>expectancy. This directive takes effect at midnight March 18, 2020 and will include all levels of care.”</p> <p>On March 18, 2020, the Kentucky Board of Medical Licensure issued a <a href="#">memorandum</a> stating that “In discussions with the Cabinet, it is our understanding that [the Cabinet’s March 18 directive] applies to all procedures no matter the location or setting, which includes a physician’s in-office setting or outpatient surgery center.”</p> <p>On March 23, 2020, the Cabinet issued a <a href="#">directive</a> stating that all non-emergent, non-urgent in-person medical, surgical, dental, and any other healthcare practice or procedure must have immediately ceased effective close of business on March 18, 2020.</p>	<p>(2) Urgent – Any healthcare service that, were it not provided, is at a high risk of resulting in serious and/or irreparable harm to a patient if not provided within 24 hours to 30 days.</p> <p>(3) Non-Urgent – Any healthcare service that, were it not provided, is unlikely to result in any serious and/or irreparable harm to a patient if not provided for more than 30 days. (For example, chiropractic medicine).</p> <p>(C) When considering the above guidance, clinicians are urged to consider whether the service provided would still be retrospectively deemed necessary if the patient (or close contact of the patient) were to become infected by COVID-19 as a result and suffer serious and/or irreparable harm as a result.</p> <p>(D) The Kentucky Board of Medical Licensure memorandum further states that the Cabinet’s directive “does give a physician the discretion whether a delay will not cause harm to the patient or negatively affect the patient’ life expectancy.”</p>
<p><b>Louisiana</b></p>	<p>Louisiana Department of Health Healthcare Facility Notice/Order #2020-COVID-19-ALL-007, dated March 21, 2020.</p> <p>(1) Medical and surgical procedures. In the order, the Department states that, effective immediately, “any and all medical and surgical procedures SHALL be postponed until further notice” subject to exceptions identified in the column to the immediate right.</p>	<p>(A) Medical and surgical procedures. Medical and surgical procedures are allowed in order to treat an emergency medical condition; “emergency medical condition” (EMC) is the definition used in 42 CFR section 489.24; such definition states that and EMC 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 in the absence of immediate medical attention could reasonably be expected to result in:</p> <p>(1) 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;</p> <p>(2) Serious impairment of bodily functions; or</p> <p>(3) Serious disfunction of bodily organs. Medical and surgical procedures are allowed to avoid further harms from underlying condition or disease.</p>

States	Directives	Specifics and Other Considerations
<b>Louisiana (Cont.)</b>	(2) Healthcare services other than medical and surgical procedures. With regard to healthcare services, other than medical and surgical procedures, all health care providers are directed to postpone all in-person health care services that can safely be postponed for 30 days.	(B) Healthcare services other than medical and surgical procedures. With regard to healthcare services, other than medical and surgical procedures, all health care providers are directed to postpone all in-person health care services that can safely be postponed for 30 days. 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.
<b>Maryland</b>	<p><a href="#">Maryland Department of Health Directive and Order</a>, March 23, 2020.</p> <p>1) Elective and Non-urgent Medical Procedures - Licensed Health Care Facilities. In accordance with the guidance issued by MDH and posted on its website at <a href="http://coronavirus.maryland.gov">http://coronavirus.maryland.gov</a>, all licensed hospitals, ambulatory surgical centers, and all other licensed health care facilities shall cease all elective and non-urgent medical procedures effective at 5 p.m., Tuesday, March 24, 2020 and not provide any such procedures for the duration of the catastrophic health emergency.</p> <p>(2) Elective and Non-urgent Medical Procedures - All Health Care Practitioners. In accordance with the guidance issued by MDH and posted on its website at <a href="http://coronavirus.maryland.gov">http://coronavirus.maryland.gov</a>, all</p>	<p>The Maryland Department of Health provides guidance concerning what procedures are and are not subject to postponement. This guidance can be found at <a href="http://coronavirus.maryland.gov">http://coronavirus.maryland.gov</a>.</p>

States	Directives	Specifics and Other Considerations
<p><b>Maryland (Cont.)</b></p>	<p>providers of health care licensed, certified, or otherwise authorized under the Health Occupations Article shall perform only procedures that are critically necessary for the maintenance of health for the patient. All elective and nonurgent medical procedures and appointment shall cease effective at 5 p.m., Tuesday, March 24, 2020 and shall not be performed for the duration of the catastrophic health emergency.</p>	
<p><b>Massachusetts</b></p>	<p><a href="#">Order of the Commissioner of Public Health</a>, March 15, 2020. All hospitals and ambulatory surgical centers shall implement procedures published by the Department of Public Health (DPH) regarding the scheduling, cancelation, and performance of non-essential elective invasive procedures.</p> <p>March 15, 2020, Department of Health <a href="#">Memorandum</a> entitled “Nonessential, Elective Invasive Procedures in Hospitals and Ambulatory Surgical Centers during the COVID-19 Outbreak.”</p>	<p>(A) DPH defines nonessential, elective invasive procedures as procedures that are scheduled in advance because the procedure does not involve a medical emergency; provided, however, that terminating a pregnancy is not considered a nonessential, elective invasive procedure for the purpose of this guidance. However, the ultimate decision is based on clinical judgement by the caring physician.</p> <p>(B) DPH recommends that providers at each hospital or ambulatory surgical center use their clinical judgment on a case by case basis regarding any invasive procedures that must be done to preserve the patient's life and health. This does not apply to the cancelation or delay of life sustaining care. However, the ultimate decision is based on clinical judgement by the caring physician.</p> <p>(C) Examples of nonessential, elective invasive procedures may include but are not limited to:</p> <ol style="list-style-type: none"> <li>(1) Any procedures involving skin incision;</li> <li>(2) Injections of any substance into a joint space or body cavity;</li> <li>(3) Orthopedic procedures (e.g. hip or knee replacement), endoscopy (e.g., colonoscopy, bronchoscopy, esophagogastric endoscopy, cystoscopy, percutaneous endoscopic gastronomy, J-tube placements, nephrostomy tube placements);</li> <li>(4) Invasive radiologic procedures;</li> <li>(5) Dermatology procedures (e.g. excision and deep cryotherapy for malignant lesions-excluding cryotherapy for benign lesions);</li> <li>(6) Invasive ophthalmic procedures including miscellaneous procedures involving implants;</li> <li>(7) Oral procedures (e.g. tooth extraction);</li> </ol>

States	Directives	Specifics and Other Considerations
<b>Massachusetts (Cont.)</b>		<ul style="list-style-type: none"> <li>(8) Podiatric invasive procedures (e.g., removal of ingrown toenail);</li> <li>(9) Skin or wound debridement;</li> <li>(10) Kidney stone lithotripsy;</li> <li>(11) Colposcopy and/or endometrial biopsy.</li> </ul>
<b>Michigan</b>	<p><a href="#">Executive Order 2020-17</a> (COVID-19) “Temporary restrictions on non-essential medical and dental procedures.” No later than March 21, 2020 at 5:00 pm, all hospitals, freestanding surgical outpatient facilities, and dental facilities, and all state-operated outpatient facilities (collectively, “covered facilities”), must implement a plan to temporarily postpone, all non-essential procedures (“non-essential procedure postponement plan” or “plan”).</p>	<ul style="list-style-type: none"> <li>(1) Non-essential procedure” means a medical or dental procedure that is not necessary to address a medical emergency or to preserve the health and safety of a patient, as determined by a licensed medical provider.</li> <li>(2) A plan for a covered facility that performs medical procedures, including any medical center or office that performs elective surgery or cosmetic plastic surgery, must postpone, at a minimum, joint replacement, bariatric surgery, and cosmetic surgery, except for emergency or trauma-related surgery where postponement would significantly impact the health, safety, and welfare of the patient.</li> <li>(3) A plan for a covered facility that performs medical procedures should exclude from postponement: surgeries related to advanced cardiovascular disease (including coronary artery disease, heart failure, and arrhythmias) that would prolong life; oncological testing, treatment, and related procedures; pregnancy-related visits and procedures; labor and delivery; organ transplantation; and procedures related to dialysis. A plan for a covered facility that performs medical procedures must exclude from postponement emergency or trauma-related procedures where postponement would significantly impact the health, safety, and welfare of the patient.</li> </ul>
<b>Minnesota</b>	<p>March 19, 2020, <a href="#">Emergency Executive Order 20-09</a>. The order states that “Beginning no later than March 23, 2020 at 5:00 pm, and continuing for the duration of the peacetime emergency declared in Executive Order 20-01 or until this Executive Order is rescinded, all non-essential or elective surgeries and procedures, including non-emergent or elective dental care, that utilize PPE or ventilators must be postponed indefinitely.”</p>	<p>A non-essential surgery or procedure is a surgery or procedure that can be delayed without undue risk to the current or future health of a patient. Examples of criteria to consider in making this determination include:</p> <ul style="list-style-type: none"> <li>(1) Threat to the patient’s life if surgery or procedure is not performed;</li> <li>(2) Threat of permanent dysfunction of an extremity or organ system, including teeth and jaws;</li> <li>(3) Risk of metastasis or progression of staging.</li> </ul>

States	Directives	Specifics and Other Considerations
<b>Minnesota (Cont.)</b>	On March 25, the Minnesota Department of Health also published a document entitled <a href="#">FAQ: Executive Order Delaying Elective Medical Procedures</a>	
<b>Mississippi</b>	<p><a href="#">March 19, 2020, Mississippi State Department of Health News Release.</a> Elective medical procedures and non-essential medical visits must be postponed at this time.</p> <p>On April 10, the Mississippi governor issued <a href="#">Executive Order 1470</a>, which is in effect until April 27, 2020.</p>	<p>Under the March 19 Mississippi State Department of Health directive, the following measures should be taken:</p> <ol style="list-style-type: none"> <li>1) Physicians, hospitals and medical centers must defer elective surgical and diagnostic procedures until COVID-19 spread has been diminished and the supply of PPE is restored.</li> <li>2) Physicians and providers should reschedule non-urgent medical appointments for a later date.</li> <li>3) Patients should reschedule any non-essential procedures, surgeries or medical visits until the threat of COVID-19 is diminished.</li> </ol> <p>Executive Order 1470 states that all licensed health care professionals and all licensed health care facilities shall postpone all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient’s physician.</p> <p>The prohibition does not apply to any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not have the potential to deplete the hospital capacity, medical equipment, or PPE needed to cope with the COVID-19 disaster.</p>
<b>Nebraska</b>	April 3, 2020, a Directed Health Measure Order issued by the Nebraska Department of Health and Human Services, states that elective medical and dental surgeries and elective medical and dental procedures are hereby prohibited.	<ol style="list-style-type: none"> <li>(1) An elective surgery or procedures means a surgery or procedure that is scheduled in advance because it does not involve a medical or dental emergency.</li> <li>(2) Surgeries or procedures that must be done to preserve the patient’s life of physical health, but do not need to be performed immediately, are allowed by a case-by-case determination of the medical or dental provider.</li> </ol>



States	Directives	Specifics and Other Considerations
<p><b>New Jersey</b></p>	<p>March 23, 2020, <a href="#">Executive Order, No. 109</a>, states in part that beginning at 5:00 p.m. on Friday, March 27, 2020, all “elective” surgeries performed on adults, whether medical or dental, and all “elective” invasive procedures performed on adults, whether medical or dental, are suspended in the State.</p> <p>All elective surgeries or invasive procedures, whether medical or dental, already scheduled for after 5:00 p.m. on Friday, March 27, 2020, are to be cancelled or postponed indefinitely.</p> <p>Facilities are to immediately notify all patients and providers that have scheduled elective surgeries or invasive procedures that these operations cannot proceed as scheduled under the terms of the order.</p>	<p>(1) An “elective” surgery or invasive procedure, for purposes of the order, is defined as any surgery or invasive procedure that can be delayed without undue risk to the current or future health of the patient as determined by the patient’s treating physician or dentist.</p> <p>(2) An “elective” surgery or invasive procedure does not include the administration of vaccines.</p> <p>(3) Providers planning or determining whether to perform surgery and invasive procedures in their offices must also consider any possible post-operation complications that may place additional stress on local hospitals that do not have the capacity to accept transfers and need to coordinate any possible post-operation admissions with local hospitals prior to performing surgeries or invasive procedures. Ambulatory surgery centers are to coordinate any possible post-surgery admissions with local hospitals prior to performing any surgery or invasive procedure.</p> <p>(4) Nothing in the order shall be construed to limit access to the full range of family planning services and procedures, including terminations of pregnancies, whether in a hospital, ambulatory surgery center, physician office, or other location.</p> <p>(5) Each hospital or ambulatory surgery center shall establish written guidelines to ensure adherence to the provisions of the order, a copy of which shall be provided to the department of health. In establishing such guidelines, the hospital or ambulatory surgery center shall include a process for consultation with the treating provider about a designation that the surgery or invasive procedure is elective under the terms of the order.</p>
<p><b>New Mexico</b></p>	<p>March 24, 2020, <a href="#">Public Health Order</a>, stating that, effective March 27, all hospitals and other health care facilities, ambulatory surgical facilities, dental, orthodontic, and endodontic offices of the State of New Mexico are prohibited from providing non-essential health care services, procedures, and surgeries.</p>	<p>(A) “Non-essential health care services, procedures, and surgeries” include those which can be delayed for three (3) months without undue risk to the patient’s health. Examples of criteria to consider in distinguishing between essential and nonessential actions include:</p> <ol style="list-style-type: none"> <li>(1) Threat to a patient’s life;</li> <li>(2) Threat of permanent dysfunction of an extremity, including teeth, jaws, and eyes;</li> <li>(3) Risk of metastasis or progression of staging;</li> <li>(4) Prenatal and postnatal care; and</li> <li>(5) Any other factors that will conserve medical resources without creating an undue risk of permanent harm to patients.</li> </ol>

States	Directives	Specifics and Other Considerations
<p><b>New Mexico (Cont.)</b></p>		<p>(B) The order’s prohibition on non-essential health care services, procedures, and surgeries is not meant to apply to:</p> <ul style="list-style-type: none"> <li>(1) The provision of emergency medical care or any actions necessary to provide treatment to patients with emergency or urgent medical needs;</li> <li>(2) Any surgery or treatment that if not performed would result in a serious condition of a patient worsening (e.g., removing a cancerous tumor or a surgery intended to manage an infection); and</li> <li>(3) The full suite of family planning services.</li> </ul> <p>(C) Within three (3) days of the date of the order, i.e., March 24, each health care provider or facility that is subject to the prohibition on non-essential health care services, procedures, and surgeries shall submit to the New Mexico Department of Health a policy addressing how it will comply with the order and identifying those procedures that will generally be deemed essential and non-essential.</p>
<p><b>New York</b></p>	<p>March 16, 2020, <a href="#">Executive Order No. 100</a>. The order directs New York City Health and Hospitals Corporation ("NYC Health+ Hospitals") to immediately move to cancel or postpone elective procedures system-wide and to cease performing such procedures within 96 hours of the issuance of the order. The order also directs other hospitals and ambulatory surgery centers in New York City to immediately move to cancel or postpone elective procedures and to cease performing such procedures within 96 hours of the issuance of the order.</p> <p><a href="#">Executive Order No. 202.10</a>, dated March 23, 2020, states that the Commissioner of Health is authorized to direct, and so shall direct, all general hospitals, ASCs, office-based surgery.</p>	<ul style="list-style-type: none"> <li>(1) NYC Health+ Hospitals are directed to identify procedures that are deemed "elective" by assessing which procedures can be postponed or cancelled based on patient risk considering the emergency need for redirection of resources to COVID-19 response.</li> <li>(2) Hospitals and ambulatory surgery centers are also directed to identify procedures that are deemed "elective" by assessing which procedures can be postponed or cancelled based on patient risk considering the emergency need for redirection of resources to COVID-19 response.</li> </ul>

States	Directives	Specifics and Other Considerations
<b>New York (Cont.)</b>	practices and diagnostic and treatment centers to increase the number of beds available to patients, including by cancelling all elective surgeries and procedures as the Commissioner of Health shall define. General hospitals shall comply with such order by submitting COVID-19 plans to the New York State Department of Health	
<b>North Carolina</b>	March 20, 2020, <a href="#">bulletin</a> from the North Carolina Department of Human Services, stating in part that, effective March 23rd, 2020, as part of a unified response, all hospitals and ambulatory surgery centers will suspend all elective and non-urgent procedures and surgeries. Beginning, March 20th, hospitals and ambulatory surgery centers should institute an explicit, real-time review of all non-time sensitive procedures and surgeries.	Elective and non-urgent procedures and surgeries are defined as any procedure or surgery that if not done within the next four (4) or the order would cause harm to the patient.
<b>Ohio</b>	March 17, 2020, <a href="#">bulletin</a> from the Ohio Department of Health, stating that, effective 5:00 p.m. on Wednesday March 18, 2020, all non-essential or elective surgeries and procedures that utilize PPE should not be conducted.	<ol style="list-style-type: none"> <li>(1) A non-essential surgery is a procedure that can be delayed without undue risk to the current or future health of a patient. Examples of criteria to consider include: (a) threat to the patient’s life is surgery or procedure is not performed; (b) threat of permanent dysfunction of an extremity or organ system; (c) risk of metastasis or progression of staging; or (d) risk of rapidly worsening to severe symptoms (time sensitive).</li> <li>(2) Each hospital and outpatient surgery or procedure provider, whether public, private, or nonprofit, shall establish an internal governance structure to ensure compliance.</li> <li>(3) The bulletin also takes into consideration and is consistent with the Ohio Hospital Association’s <a href="#">Implementing Guidelines for the Management of Non-Essential Surgeries and Procedures Throughout Ohio</a>, dated March 16, 2020.</li> </ol>

States	Directives	Specifics and Other Considerations
<b>Oklahoma</b>	<p><a href="#">Fourth Amended Executive Order 2020-07</a>, dated March 24, 2020, states that Oklahomans and medical providers shall postpone all elective surgeries, minor medical procedures, and non-emergency, and non-emergency dental procedures. This prohibition remains in place at least until April 30.</p>	
<b>Oregon</b>	<p><a href="#">Executive Order No. 20-10</a>, dated March 19, 2020, states that, not later than March 23, 2020, all elective and non-urgent procedures across all care settings that utilize PPE, including but not limited to, hospitals, ambulatory surgery centers, outpatient clinics (including community health clinics and student health centers), dental clinics, and veterinary clinics shall be cancelled, or rescheduled no earlier than June 15, 2020, for the purpose of conserving and redirecting PPE for the state’s COVID-19 emergency response.</p> <p>On April 8, the Oregon Health Authority issued <a href="#">Revised Interim COVID-19 Guidance for Elective and Non-Urgent Health Care Procedures</a>.</p>	<p>The <a href="#">Revised Interim COVID-19 Guidance for Elective and Non-Urgent Health Care Procedures</a> provides some more specifics regarding the delay of elective procedures that is helpful.</p>

States	Directives	Specifics and Other Considerations
<b>Pennsylvania</b>	<p>An <a href="#">executive order</a>, dated March 19, 2020, states in part that “No person or entity shall operate a place of business in the Commonwealth that is not a life sustaining business regardless of whether the business is open to members of the public.”</p> <p>The governor has published a <a href="#">list</a> of businesses that may continue operations. The list indicates that elective procedures are prohibited in: physician offices; offices of other health care providers; outpatient care centers; medical and diagnostic laboratories; home health care services; other ambulatory health care services; general medical and surgical hospitals; psychiatric and substance abuse hospitals; specialty (except psychiatric and substance abuse) hospitals.</p>	<p>On April 1, the Pennsylvania Department of Health the released a resource entitled “Guidance on Ambulatory Surgical Facilities’ Responses to COVID-19.” This document states that ambulatory surgical facilities (ASFs) must review all scheduled elective surgeries and procedures and develop and implement a plan to postpone or cancel those surgeries and procedures if they have not done so already. After March 20, 2020, ASFs may not perform any elective surgeries or procedures unless the surgery or procedure would preserve organ function or avoid further harms from an underlying condition or disease. ASFs must consult CMS’s guidelines on elective surgery and procedure recommendations when making cancellation decisions. ASFs may not allow the performance of surgeries to treat emergency or life-threatening conditions to occur in the facility, unless no hospital is available for the procedure and the need for the surgery could not have been anticipated.</p> <p>On April 2, the Pennsylvania Department of Health updated a resource entitled “Guidance on Hospital’s Responses to COVID-19.” This document in part states that “Hospitals must implement their plan to postpone or cancel elective admissions, surgeries and procedures if they have not done so already. Hospitals must consult CMS’s guidelines on elective surgery and procedure recommendations when making cancellation decisions. Only surgical services and procedures that would be emergent or urgent to save a life, preserve organ function, or avoid further harms from underlying condition or disease may continue to be performed.”</p>
<b>South Dakota</b>	<p>On March 23, the South Dakota governor issued <a href="#">Executive Order 2020-08</a>, which stated in part “All healthcare organizations within the State of South Dakota shall: postpone all non-essential elective surgeries to conserve (and thereby maximize) supplies of PPE. Subsequent orders, e.g., <a href="#">Executive Order 2020-12</a>, dated April 6, 2020, have extended the prohibition.</p>	

States	Directives	Specifics and Other Considerations
<p><b>Tennessee</b></p>	<p><a href="#">Executive Order No. 18</a>, dated March 23, 2020, states that all hospitals and surgical outpatient facilities in the State of Tennessee shall not perform non-essential procedures.</p> <p>See also <a href="#">Executive Order No. 25</a>, dated April 8, 2020, <a href="#">stating</a> in part that “All healthcare professionals and healthcare facilities...shall postpone surgical and invasive procedures that are elective and non-urgent. Elective and non-urgent procedures are those procedures that can be delayed until the expiration of this order because they are not required to provide life-sustaining treatment, to prevent death or risk of substantial impairment of a major bodily function, or to prevent rapid deterioration or serious adverse consequences to a patient's physical condition if the surgical or invasive procedure is not performed, as reasonably determined by a licensed medical provider.”</p>	<p>(A) Medical procedures excluded from postponement include, but are not limited to:</p> <ol style="list-style-type: none"> <li>(1) Surgeries related to advanced cardiovascular disease (including coronary artery disease, heart failure, and arrhythmias) that would prolong life;</li> <li>(2) Oncological testing, treatment, and related procedures;</li> <li>(3) Pregnancy-related visits and procedures, including labor and delivery; and</li> <li>(4) Organ transplantation; procedures related to dialysis; and emergency or trauma-related procedures where postponement would significantly impact the health, safety, and welfare of the patient.</li> </ol> <p>(B) “Non-essential services” includes any medical procedure that is not necessary to address a medical emergency or to preserve the health and safety of a patient, as determined by a licensed medical provider.</p> <p>(C) All hospitals and freestanding surgical outpatient facilities must postpone, at a minimum, joint replacement, bariatric surgery, and cosmetic surgery, except for emergency or trauma-related surgery where postponement would significantly impact the health, safety, or welfare of the patient.</p>

States	Directives	Specifics and Other Considerations
<p><b>Texas</b></p>	<p><a href="#">Executive Order GA 09</a>, dated March 22, 2020, states that all licensed health care professionals and all licensed health care facilities shall postpone all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient’s physician. The order is effective until April 21, 2020.</p>	<p>(A) Executive Order GA 09 states as follows:</p> <ol style="list-style-type: none"> <li>(1) The prohibition shall not apply to any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the PPE needed to cope with the COVID- 19 disaster.</li> <li>(2) The Texas Medical Board has passed <a href="#">emergency rules</a> addressing the issue of elective surgeries. The Texas Medical Board has also published an FAQ updated April 21, 2020, addressing elective surgeries.</li> <li>(3) Emergency rules state, in part, that any licensee shall be immediately required to report any physician scheduling to perform, preparing to perform, performing, or who has performed a non-urgent elective surgery or procedure, immediately to the board. The rules also state, in part, that a disciplinary panel shall determine from the evidence or information presented to it whether a person's continuation in practice constitutes a continuing threat to the public welfare, and that the performance of a non-urgent elective surgery or procedure is a “continuing threat to the public welfare.”</li> <li>(4) The rules also state that all licensed health care professionals shall postpone all surgeries and procedures that are not immediately medically necessary to correct a serious medical condition of, or to preserve the life of, a patient who without immediate performance of the surgery or procedure would be at risk for serious adverse medical consequences or death, as determined by the patient's physician. However, the prohibition shall not apply to any procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete the hospital capacity or the personal protective equipment needed to cope with the COVID-19 disaster.</li> <li>(5) The FAQ contains very useful specifics.</li> </ol>
<p><b>Utah</b></p>	<p>A March 23, 2020, <a href="#">directive</a> from the Utah Department of Health, orders that, effective March 25, 2020, all licensed health-care professionals and all licensed health-care facilities shall postpone all elective surgeries and procedures in accordance with version 3.15.20 of the CMS Adult Elective Surgery and Procedures Recommendations, promulgated by the CMS on March 18, 2020.</p>	

States	Directives	Specifics and Other Considerations
<p><b>Vermont</b></p>	<p>(A) <a href="#">Executive Order No. 01-20 – Addendum 3</a>, dated March 20, 2020, orders all clinicians in Vermont to “expedite postponement” of all non-essential adult elective surgery and medical and surgical procedures, including all dental procedures in the safest but most expedient way possible.</p> <p>(B) <a href="#">Executive Order No. 01-20 – Addendum 9</a>, dated April 10, states, in part, that the purpose of the order is to clarify that health care providers, facilities, and volunteers, are immune from civil liability for any death, injury, or loss resulting from COVID-19 related <b>emergency management services or response activities</b>, except in the case of willful misconduct or gross negligence. This order is in effect until May 15, 2020. (This order also extended the COVID-19 state of emergency to the end of May 15).</p>	<p>Executive Order No. 01-20 – Addendum 3 states that:</p> <p>(A) At all times, the supply of PPE, hospital and intensive care unit beds, and ventilators should be considered, even in areas that are not currently dealing with COVID-19 infections.</p> <p>(B) While case-by-case evaluations will be made by clinicians, the following factors are to be considered as to whether planned surgery should proceed:</p> <ol style="list-style-type: none"> <li>(1) Current and projected COVID-19 cases in the facility and region;</li> <li>(2) Supply of PPE to the facilities in the system;</li> <li>(3) Staffing availability;</li> <li>(4) Bed availability, especially intensive care unit (ICU) beds;</li> <li>(5) Ventilator availability;</li> <li>(6) Health and age of the patient, especially given the risks of concurrent COVID-19 infection during recovery;</li> <li>(7) Urgency of the procedure.</li> </ol> <p>(C) Executive Order No. 01-20-Addendum 9 states that, for health care facilities and providers, an “emergency management service or response activity,” includes, but may not be limited to: expedited postponement of non-essential adult elective surgery and medical and surgical procedures, including dental procedures, in the safest but most expedient way possible, as ordered by Addendum 3 of the Executive Order, if elective surgeries and medical and surgical procedures are performed at the health care facility or by the health care provider;</p> <ol style="list-style-type: none"> <li>(1) cancelling or denying elective surgeries or procedures or routine care to the extent determined necessary for the health, safety and welfare of a patient or as necessary to respond to the COVID-19 outbreak;</li> <li>(2) Redeployment or cross training of staff not typically assigned to such duties, to the extent necessary to respond to the COVID-19 outbreak; Planning, or enacting, crisis standard-of-care measures, including, but not limited to, modifying numbers of beds, preserving PPE, and triaging access to services or equipment as necessary to respond to the COVID-19 outbreak; and</li> <li>(3) Reduced record-keeping to the extent necessary for health care providers to respond to the COVID-19 outbreak.</li> </ol>



States	Directives	Specifics and Other Considerations
Vermont (Cont.)		(D) Executive Order No. 01-20 states that, for health care volunteers, “emergency management services or response activities” also includes providing services, assistance, or support at a health care facility in response to the COVID-19 outbreak. Executive Order No. 01-20 states that “Nothing contained in this Executive Order shall alter existing law with respect to gross negligence or willful misconduct.”
Virginia	<a href="#">Order of Public Health Emergency Two</a> , dated March 25, 2020, prohibits all inpatient and outpatient surgical hospitals, freestanding endoscopy centers, physicians’ offices, and dental, orthodontic, and endodontic offices in the Commonwealth from providing procedures and surgeries that require PPE, which if delayed, are not anticipated to cause harm to the patient by negatively affecting the patient's health outcomes, or leading to disability or death. This does not include outpatient visits delivered in hospital-based clinics.	<p>Inpatient and outpatient surgical hospitals, free-standing endoscopy centers, physicians’ offices, and dental, orthodontic, and endodontic offices may perform any procedure or surgery that if delayed or canceled would result in the patient's condition worsening.</p> <p>The order does not apply to the full suite of family planning services and procedures nor to treatment for patients with emergency or urgent needs. Outpatient surgical hospitals are encouraged to work with their local inpatient hospitals to assist with surge capacity needs.</p>
Washington	On March 19, 2020, the Washington governor issued an <a href="#">order</a> stating that, it is necessary to immediately prohibit all hospitals, ambulatory surgery centers, and dental, orthodontic and endodontic offices in Washington State from providing health care services, procedures and surgeries that require PPE, which if delayed, are not anticipated to cause harm to the patient within the next three months. Ambulatory surgical facilities are encouraged to work with their local hospitals to assist with surge capacity needs.	<ol style="list-style-type: none"> <li>(1) Examples of procedures to delay include, but are not limited to most joint replacements, most cataract and lens surgeries, non-urgent cardiac procedures, cosmetic procedures, some endoscopy, and some interventional radiology services.</li> <li>(2) The prohibition does not include outpatient visits delivered in hospital-based clinics.</li> <li>(3) The prohibition does not apply to the full suite of family planning services and procedures or to treatment for patients with emergency/urgent needs (examples of the latter include, but are not limited to, people with heart attacks, strokes, or motor vehicle accidents).</li> <li>(4) Hospitals and ambulatory surgical facilities may perform any surgery that if delayed or canceled would result in the patient’s condition worsening (for example, removal of a serious cancerous tumor or dental care related to the relief of pain and management of infection.)</li> </ol>

States	Directives	Specifics and Other Considerations
<p><b>West Virginia</b></p>	<p><a href="#"><u>Executive Order</u></a> No. 16-20, dated March 31, 2020, states that, effective April 1, 2020, all elective medical procedures are hereby prohibited; provided that patients will still have access to urgent, medically necessary procedures like those needed to preserve the patient's life or long term health; and provided that this prohibition applies equally to all types of elective medical procedures performed in hospitals, offices, and clinics throughout the state.</p>	<p>Under Executive Order No. 16-20, the term "elective" includes medical procedures that are not immediately medically necessary to preserve the patient's life or long term health, except that procedures that cannot be postponed without compromising the patient's long term health, procedures that cannot be performed consistent with other law at a later date, or procedures that are religiously mandated shall not be considered "elective" under the order.</p>