

Jennifer Kreick in Bloomberg Law: Government Works to Match Health Rules to Rapid Virus Response

March 31, 2020 Jennifer Kreick

PRACTICES Healthcare and Life Sciences

Haynes Boone Associate [Jennifer Kreick](#) comments in a *Bloomberg Law* article about how the Trump Administration is relaxing or discarding certain rules that some hospitals have been forced to disregard as they cope with a flood of coronavirus patients, limited supplies, and a shortage of staff.

Here is an excerpt:

Federal agencies in recent weeks waived certain rules for nursing homes, expanded insurance coverage for coronavirus testing under Medicare Part B and plans purchased through HealthCare.gov, and gave hospitals a reprieve from certain requirements intended to protect patient privacy. The Centers for Medicare & Medicaid Services went even further Monday, making a series of changes that allow hospitals to treat more patients in temporary facilities, free them of certain paperwork demands, and beef up their workforce.

“Right now we need to do whatever we can to really be able to provide good, effective, safe patient care,” said Jennifer Kreick, of Haynes Boone’s Dallas office. “To the extent that regulatory requirements prohibit us from doing that, [healthcare providers] are going to focus on good patient care and then come back and ask for forgiveness or leniency in some of these health regulatory policies.”

While many state laws have exceptions for in-state licensing for healthcare providers during an emergency that would allow them to use telehealth to treat patients in or out of state, healthcare attorneys say the states could do more to expand upon the CMS’ steps promoting telehealth.

“State licensing laws, including those related to telemedicine, could benefit from clear relaxation during this public health emergency to allow healthcare providers to more easily provide care across state lines and move resources to locations most in need,” Kreick said.

Help for Expected Surge

One of the most important changes for hospitals and facilities is a CMS waiver eliminating requirements that critical access hospitals—typically small facilities in rural areas—are limited to 25 beds, Kreick said. The expansion will allow these hospitals to treat the anticipated wave of new virus patients in the days and weeks to come.

Another important provision is the elimination of a requirement that patients must be hospitalized for three days prior to being transferred to a skilled nursing facility, Kreick said. That will allow hospitals to triage patients and relocate them as needed at a faster rate as admissions for Covid-19 continue to rise.

States are able to ask the CMS to grant them Medicaid waivers, and at least 34 have done so to date. That includes requests for waivers for prior authorization when treating Covid-19 patients;

more and faster provider enrollment processes to ensure more patients have access to more doctors; and allowing care to be provided in alternate settings—even in unlicensed facilities—as demand grows, Kreick said.

“The most critical thing is allowing healthcare providers to practice in other states in which they do not hold a license,” she said.

“Providers were already facing a shortage of healthcare staff, and especially to the extent that providers have become infected with Coronavirus and aren’t able to provide care, we need to fill those gaps and allow providers to move around to the states with the most need,” she said. “I think that’s really going to help.”

To read the full article, click [here](#).