



COVID-19 Temporary Authority to Delay, Waive, or Modify Statutes and Rules

LEGISLATIVELY MANDATED REPORT

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COVID-19 Temporary Authority to Delay, Waive, or Modify Statutes and Rules

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Report Requirements

[Minnesota Laws 2020, chapter 74, article 1, section 13](#)

Sec. 13. COMMISSIONER OF HEALTH; TEMPORARY EMERGENCY AUTHORITY.

Subd. 6. Report.

Within 60 days after the peacetime emergency specified in subdivision 1 is terminated or rescinded by proper authority, the commissioner shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over the Department of Health with specific details about statutes and rules delayed, waived, or modified as authorized in subdivision 2.

COVID-19 Waivers and Modifications

Modifying certain equipment performance standards for x-ray equipment

The commissioner temporarily modified certain specified intervals for equipment performance evaluation requirements for health care-based use of x-ray and related technologies. Under current law, facilities are required to have x-ray equipment tested at specified intervals by a service provider. Service providers were being restricted access or are not providing services to facilities due to concerns around personal protective equipment (PPE) and disinfectant supplies, which would be consumed while testing the x-ray equipment. These temporary modifications allowed flexibility for health care-based facilities to use x-ray equipment for clinical use that exceeded the frequency of x-ray equipment testing. Modification for delaying equipment performance evaluation was effective March 13, 2020 and remained in effect until the end of the peacetime emergency.

Affected Minnesota Rules, parts [4732.0860, Subp. 7](#), [4732.0865, Subp. 5](#), and [4732.1100, Subp. 2, Subp. 5 through Subp. 11, and Subp. 12, Item C](#).

Modifying asbestos certification renewals

The commissioner temporarily modified the requirements for individuals performing asbestos-related work who are required to renew their annual asbestos certification. Under current law, individuals are required to obtain a renewal training course diploma before the expiration date of their credential. Training course providers had discontinued annual renewal training for asbestos worker, asbestos site supervisor, asbestos inspector, asbestos management planner, and asbestos project designer. This temporary modification allowed individuals to obtain renewal training within 30 days after the termination of the peacetime emergency declared in Executive Order 20-01. This modification was effective March 13, 2020 and remained in effect until 30 days after the end of the peacetime emergency.

Affected Minnesota Rules, parts [4620.3300, Subp. 5, item B, Subitem 3a](#); [4620.3310, Subp. 6, Item B, Subitem 3](#); [4620.3330, Subp. 6, Item B, Subitem 3](#); [4620.3340, Subp. 6, Item B, Subitem 3](#); and [4620.3350, Subp. 6, Item B, Subitem 3](#).

Modifying Lead License Renewals

The commissioner temporarily modified the requirements for individuals performing lead regulated work who are required to renew their annual lead license. Under current law, individuals are required to obtain a renewal training course diploma before the expiration date of their license. Training course providers had discontinued annual renewal training for lead worker, lead supervisor, lead inspector, lead risk assessor, and lead project designer. This temporary modification allowed individuals to obtain renewal training within 30 days after the termination of the peacetime emergency declared in Executive Order 20-01. This modification

was effective March 13, 2020 and remained in effect until 30 days after the end of the peacetime emergency.

Affected Minnesota Rules, parts [4761.2240, Subpart 5, Item A, Subitem 3](#); [4761.2260, Subpart 6, Item A, Subitem 3](#); [4761.2280, Subpart 5, Item A, Subitem 3](#); [4761.2300, Subpart 6, Item A, Subitem 3](#); and [4761.2300, Subpart 6, Item A, Subitem 3](#).

Modifying time period for renewal of Water Supply System Operator Certification

The commissioner temporarily modified the time a certified water supply system operator had to renew their current certification. Under current law, operators are to renew their certificate within three years. Operators typically obtain training hours for renewal by attending in-person training sessions sponsored by professional organizations and the Minnesota Department of Health. These in-person training sessions were not available for operators. These temporary modifications allowed flexibility for water supply system operators to obtain the needed training and renew their certification. Modification for delaying renewal of certification was effective March 13, 2020 and remained in effect until the end of the peacetime emergency.

Affected Minnesota Rules, parts [9400.1200](#).

Modifying Certified Food Protection Manager credential renewals

The commissioner temporarily modified the requirements for individuals working in food establishments that are required to renew their Certified Food Protection Manager credential. Under current law, individuals are required to obtain four continuing education credits in food safety before the expiration date of their credential. Course providers had discontinued face-to-face education classes, which limited the availability of individuals to obtain the continuing education credits. This temporary modification allowed individuals to obtain the continuing education credits within six months after their credential expired. This modification was effective March 13, 2020 and remained in effect until 30 days after the end of the peacetime emergency.

Affected Minnesota Rules, parts [4626.0033, Subp. I \(1\)](#).

Modifying Trained Pool Operator and Lifeguard certification requirements

The commissioner temporarily modified the requirements for individuals working at public swimming pools who are required to renew or obtain their certification as a trained pool operator or lifeguard. Under current law, a trained pool operator must oversee the operation of a public swimming pool and must renew their training certification at least once every 5 years. Under current law, lifeguards at public swimming pools are required to be currently certified. Course providers had discontinued face-to-face education classes which limited the availability of individuals to obtain or renew their certification. This temporary modification allowed trained pool operators to renew their training within 6 months of the expiration of their credential. Pool operators not certified were allowed to obtain the credential within 2 months of being assigned as the pool operator. This temporary modification also allowed currently

certified lifeguards to obtain their renewal certification within 6 months of the expiration of their certification. This modification is effective March 13, 2020 and remained in effect until 30 days after the end of the peacetime emergency.

Affected Minnesota Rules [4717.0650 Subp. 3 and Subp. 5](#); and [4717.0950](#).

Modifying continuing education requirement for Well Contractors

The commissioner temporarily modified well contractor license renewal requirements. Under current law, to satisfy annual license renewal requirements, well contractors must obtain up to six hours of continuing education contact hours. Third-party vendors, equipment manufacturers, and trade organizations had been postponing or canceling continuing education training events to avoid large gatherings. These temporary modifications allowed well contractors the flexibility to renew a license obtain the required continuing education contact hours when these training sessions became available. Modifications for delaying license renewal requirements were effective March 13, 2020 and remained in effect until the end of the peacetime emergency.

Affected Minnesota Rules, part [4725.1650](#).

Waiving hospital licensing, inspection, and fee requirements, and construction moratoriums

The commissioner temporarily waived the statutes noted below that affect hospital licensing, inspection, and fees as well as construction moratoriums. These waivers addressed the need for hospitals to expand their bed capacity at current sites and alternative care sites to respond to the expected surge in demand from COVID-19. They also allowed for the expansion of hospital beds at current sites and alternate health care facility sites to respond to the anticipated surge without increasing the hospital licensing fees. In addition, waiving the moratorium on hospital construction; the public interest review process for new construction; and the licensing and inspection of new hospitals allowed health care systems to quickly set up alternative care facilities to respond to the need for additional bed capacity. These waivers were in place for the duration of the peacetime emergency and 60 days past the end of the emergency.

Affected Minnesota Statutes, secs. [144.122](#), [144.55.1](#), [144.551](#), [144.553](#); and [144.50](#) to [144.56.4](#).

Waiving registration requirements and maximum charge amounts for Supplemental Nursing Services Agency

The commissioner waived statutes that affect state registration requirements and maximum charge amounts for supplemental nursing services agencies (SNSAs). This allowed any in-state licensed health facility regulated by MDH, including hospitals among others, to provide temporary staff in other health facilities that serve residents with COVID-19 without having to be registered as an SNSA. In addition, waiving maximum hourly charges for SNSA services in nursing homes allowed the State Emergency Operations Center, in consultation with the Department of Human Services Nursing Home Rates and Policy Division, to set new maximum charge amounts for SNSAs when they were providing staff to work in nursing homes that

served residents with COVID-19. These changes provided flexibility for health facilities assisting other health facilities in finding staff. These waivers were in place for duration of the peacetime emergency and 60 days past the end of the emergency.

Affected statutes: Minnesota Statutes secs. [144A.70](#), [144A.71](#) and [144A.74](#).

Waiving nursing home bed layaway requirements

The commissioner waived statutes that affected nursing home facilities' ability to add licensed beds quickly without incurring a financial burden during the pandemic. Specifically, these waivers allowed nursing home facilities immediate access to beds, and to use nursing home beds to relocate patients from hospitals or other settings to nursing homes. MDH still required nursing homes to notify MDH about the bed changes and to ensure adequate and CDC-compliant space to care for COVID-19 residents. These waivers were in place for duration of the peacetime emergency and 60 days past the end of the emergency.

Affected statutes: Minnesota Statutes, secs. [144.122](#), and [144A.071, subd. 4b](#).

Waiving requirements for how deceased persons are held pending disposition

The commissioner waived statutes and rules that affected how deceased persons were held pending disposition. These changes allowed facilities to hold a deceased person longer than the statutory limit (six days for funeral establishments and 24 hours for alkaline hydrolysis facilities and crematories), with proper refrigeration. These changes also provided facilities with more options for storing deceased persons, such as mobile refrigeration units or coolers located either on or off-site, to increase capacity to store human remains. Waiving these requirements supported the public's desire to put off funerals during the pandemic, and addressed the resulting impact on providers' storage capacity. These waivers were in place for duration of the peacetime emergency and 60 days past the end of the emergency.

Affected Minnesota Statutes, secs. [149A.90.8](#); [149A.91.3](#); [149A.94.1](#); [149A.941.15](#) and [149A.95.6](#).

Waiving resident notification of transfer and discharge at nursing homes

The commissioner temporarily waived the statute affecting Minnesota's nursing home bill of rights as it relates to resident notification of transfer and discharge. Waiving the resident notification timeframes related to transfer and discharge in the Health Care Bill of Rights allowed facilities to become specialized sites in response to COVID-19 care needs. It provided nursing homes greater flexibility in the transfer and discharge of residents in order to assess and treat COVID-19 patients and meet health care requirements. This waiver was in place for duration of the peacetime emergency and 60 days past the end of the emergency.

Affected Minnesota Patient Bill of Rights Statute [144.651, Subd. 29](#).

Flexibility for State-Funded Grants

The Minnesota Department of Health administers numerous grants supported by state funds appropriated by the state legislature. These grants provide funding to a variety of grantees, such as Community Health Boards, Tribal Nations, hospitals, individuals and community-based organizations to provide specific services to communities. The commissioner had temporary authority to provide recipients of state-funded grants with additional flexibility in administration and use of state funds to assist in the response to COVID-19. While many of these specific services continued, the flexibility was needed to allow grantees to expand their services to support the state's COVID-19 response.

Affected Minnesota Statutes, sections [144.9512](#), [144.9513](#), [145.925](#), [145.986](#), [145.928](#), [144.05](#), [144.148](#), [145.9268](#), [145.929](#), [145.9269](#), [144.1503](#), [62J.692](#), [145.9268](#), [145.929](#)

Waiving licensing and practice standards for morticians, interns, and funeral providers

The commissioner waived and modified specific regulatory requirements for licensing and practice standards for morticians, interns, and funeral providers. These changes helped providers manage the surge in projected deaths due to COVID-19. Specifically, they allowed licensed providers to have their trained, unlicensed employees, or have emergency responders remove and transport deceased persons to the funeral homes. They also could hire morticians in good standing from other states and those with emeritus status, provided they had a temporary license issued by MDH. Finally, providers had extended time to process their renewal applications and fees, while waiving late fees. The waiver also allowed interns and morticians who applied by reciprocity to start working before they passed the Minnesota state exam and the national exam, and to submit case reports on duties related to cremation, alkaline hydrolysis, or other COVID-19 related duties. These waivers were in place for duration of the peacetime emergency and 60 days past the end of the emergency.

Affected Minnesota Statutes, secs. [149A.01](#), subd. 1 and 2; [149A.20](#), [149A.30](#), [149A.45](#), [149A.50.7](#), [149A.51.3](#), [149A.52.6](#), [149A.53.3](#), [149A.54.6](#), [149A.55.3](#), [149A.70.6](#), and [149A.90.2](#).

Modifying nursing home non-layaway bed requirements

The commissioner modified statutes that affected nursing homes without a layaway bed option, allowing them to quickly add licensed beds without incurring a financial burden. The modification lifted the moratorium on nursing home beds and waived the per-bed licensing fee during the COVID-19 emergency. It allowed nursing homes to quickly expand their numbers of beds in order to relocate patients from hospitals or other settings to nursing homes that did not have a layaway bed option. MDH still required nursing homes to notify MDH about the bed changes and to ensure adequate and CDC-compliant space to care for COVID-19 residents. A condition of this waiver approval was that newly added nursing home beds be certified for Medicare only and this waiver would not add Medicaid certified beds, assuring that the Medicare benefit is accessed for those dually eligible under both Medicare and Medicaid. COVID-19-affected Medicaid-eligible residents without a Medicare benefit could still access the Medicaid service regardless of the bed location on the campus if the nursing facility did not

exceed their current Medicaid certified capacity. This waiver was in place for duration of the peacetime emergency and 60 days past the end of the emergency.

Affected Minnesota Statutes, secs. [144.122](#) and [144A.071](#).

Modifying and waiving requirements for the Maltreatment of Minors Act (MOMA) and the Vulnerable Adults Act (VAA)

The commissioner temporarily waived or modified certain statutes that affected investigations, background studies, and enforcement activities for the Maltreatment of Minors Act (MOMA) and the Vulnerable Adults Act (VAA). For more information, see the [Office of Health Facility Complaints](#).

Modifying Environmental Laboratory Assessment Timeframes and Types

The commissioner temporarily waived the requirements for accredited environmental laboratories that are required to obtain an onsite assessment on a 24-month schedule, and modified the definition of inspection to include remote inspections. Under current law, laboratories are required to obtain an onsite assessment every 24 months. Accredited environmental laboratory facilities and commissioner-approved assessors were delaying onsite inspections due to limiting facility access or travel restrictions that were implemented because of COVID-19. This temporary modification allowed accredited environmental laboratories to schedule onsite or remote assessments no later than 30 days after the termination of the peacetime emergency declared in Executive Order 20-01. This modification was effective March 13, 2020 and remained in effect until 30 days after the end of the peacetime emergency.

Affected Minnesota Statutes [144.98, Subdivision 13. \(a\)](#) and Minnesota Rules, [4740.2010, Subpart 24](#).

Modifying and delaying licensing and registration requirements for regulated health occupations

The commissioner temporarily modified and delayed certain requirements for licensing, certification, and registration of occupations regulated by the Health Occupations Program. These health occupations included speech language pathologists, audiologists, hearing instrument dispensers, doulas, body art technicians, and body art establishments. The statutory modifications and delays allowed current licensees in good standing to practice during the COVID-19 peacetime emergency while protecting public safety. MDH temporarily ceased licensing activities for practitioners that were not supporting COVID-19 in health care facilities and critical access hospitals. This willed staff to support MDH in other critical areas during the COVID-19 peacetime emergency. This waiver was in place for duration of the peacetime emergency and 60 days past the end of the emergency.

Affected Minnesota Statutes, chapter [146B](#), sections [148.511](#) to [148.5198](#), sections [148.995](#) to [148.997](#), and [chapter 153A](#).

Health Professional Education Loan Forgiveness

The commissioner has temporarily waived service obligation requirements for recipients of the Health Professional Education Loan Forgiveness Program to practice in their field as a condition of ongoing eligibility. Because of the COVID-19 pandemic, many of the participating health care professionals were not able to meet the required service obligation hours due to temporary furlough, reduced hours, schools transferring to long distance learning, or the inability to transfer to a telehealth operation during the Executive Order 20-32. MDH provided assurance that their funding would not be in jeopardy due to COVID-19. From March 23, 2020 through May 17, 2020, MDH waived the required service obligation in last year's contract term. For awardees with school-aged children unable to work from March 16-20, 2020, MDH waived the requirements if sufficient documentation was provided. Requirements were also waived if an awardee could not work due to isolation from exposure to, or testing positive for, COVID-19, or due to caring for a family member who was sick with COVID-19, or whose regular care-givers were in isolation or sick with COVID-19, when sufficient documentation was provided. Under normal guidelines, Loan Forgiveness participants are required to practice for a minimum of three years in a designated rural area or in an underserved urban community. Participants in the Loan Repayment Program are required to practice for a required 2-year service obligation.

Affected Minnesota Statutes [144.1501](#).

Health Information and Administrative Simplification

The commissioner extended certifications and compliance enforcement of health information exchange entities operating in Minnesota. Under current law, entities providing health information exchange services in Minnesota for clinical transactions must apply for a certificate of authority to conduct business in the state, and apply for recertification annually thereafter. Certifications and compliance processes could be extended, allowing current state-certified health information exchange entities to continue providing essential services during the pandemic, with certification resuming on a revised delayed schedule. The commissioner also authorized a six month suspension of enforcement and exception provisions related to health care administrative simplification requirements.

Affected Minnesota Statutes [62J.498](#) through [62J.4982](#) and [62J.536 Subd. 2a and 2b](#).

Modifying Radioactive Materials Licensee Requirements

The commissioner temporarily modified requirements for radioactive materials licensees regarding certain low risk training, equipment, security program, and radiation safety program requirements. These temporary modifications allowed licensees to continue using radioactive materials while extending the timeline for completing certain low risk regulatory requirements. This temporary modification allowed licensees to delay requirements until 60 days after the termination of the peacetime emergency declared in Executive Order 20-01. Modification for radioactive materials licensees was effective March 13, 2020, and remained in effect until 60 days after the end of the peacetime emergency.

Affected Minnesota Rules, parts [4731.2360 subpart 1](#); [4731.4070 subpart 2, item A and subpart 4, item A](#); [4731.2200 subpart 2](#); [4731.4060 subpart 2, item A](#); [4731.4080 subpart 1](#); [4731.4140 subpart 3 and subpart 4, item A](#); [4731.2010 subpart 3](#); [4731.3075 subpart 5](#); [4731.4420 item B](#),

[subitems \(2\) and \(3\)](#); [4731.4421 item A](#); [4731.4424 item B, subitem \(2\)](#); [4731.4441 item A](#); [4731.4453 item A](#); [4731.4466 item E](#); [4731.4468 subpart 1](#); [4731.4470 subpart 1, item C](#); [4731.4471 subpart 1, item C](#); [4731.4477 subpart 1](#); [4731.8015 subpart 2, item B](#); [4731.8020 subpart 3](#); [4731.8055 subpart 3, item C](#); and [4731.8075 item A](#).

Waiving mitigation tag requirements for regulated radon mitigation industry

The commissioner temporarily waived the requirement for radon mitigation professionals to purchase and attach radon mitigation tags until September 1, 2020. The post-mitigation checklist requirement was modified and was required starting September 1, 2020. Waiving the radon mitigation tag and checklist requirements provides regulatory and financial relief from COVID-19-caused decline in business. All other licensing requirements were still required starting on June 1, 2020.

Affected Minnesota Statutes, [section 144.4961, subdivision 8\(5\)](#), and Minnesota Rules [4620.7600](#).

Modifying home care licensing, survey, and enforcement activities

The commissioner temporarily delayed or modified certain requirements for home care licensing, survey, and enforcement activities. The modifications to these standards can be found at [Home Care and Assisted Living](#).

Temporary blanket variance affecting continuing education requirements for regulated health occupations and mortuary science practitioners

The commissioner temporarily granted a blanket waiver of the continuing education requirements for hearing instrument dispensers, speech language pathologists, audiologists, and body art technicians regulated by the Health Occupations Program; and morticians regulated by the Mortuary Science Section, under Minnesota Statutes, chapters 146B, 148, 153A, and 149A. MDH temporarily granted a blanket variance of continuing education requirements that allowed practitioners additional time to submit their continuing education report, due at license renewal. The COVID-19 peacetime emergency affected the ability of practitioners to comply with the continuing education (CE) requirements for renewing their license to practice. Due to market conditions and safety concerns, in-person CE courses and professional conferences offering CE courses to practitioners were limited or canceled. Given the constraints on the licensing and certification requirements, the temporary variance authorized the commissioner to establish a time frame for submitting a continuing education report to MDH consistent with the first full reporting cycle following termination of the COVID-19 peacetime emergency. The variance was applied to specific renewal periods and MDH encouraged and promoted alternative methods of obtaining the continuing education through online or web-based professional education.

Affected Minnesota Statutes, chapter [146B.03, subd. 6](#); [148.5191, subd. 1](#); [148.5193](#); [153A.14, subd. 2e and 2j](#); and [149A.40, subd. 11](#).

Modifications for the Statewide Trauma System

This modification extended all statewide hospital trauma designations by one year. Typically trauma hospitals are designated for three years, after which they must re-apply for designation and undergo an onsite inspection to verify continued compliance with requirements. The inspections are performed by physicians, surgeons and nurses with subject matter expertise. Inspectors were unable to perform the visits due to the risk of exposure to infected patients. Additionally, hospitals were diverting resources that would normally be used to prepare for the onsite visits. With this modification, designated trauma hospitals could undergo reverification of their continued compliance with requirements approximately one year later than they would have otherwise. Extending all designations by one year avoided the doubling of needed site visits that would have happened in 2021. This provided relief for hospitals and freed up resources to address pandemic-related needs.

Affected Minnesota Statutes, section [144.603](#)

Trauma Hospital Designation Extension

This modification extended all state-verified level 3 and 4 trauma hospital designations by an additional six months. Typically trauma hospitals are designated for three years, after which they must re-apply for designation and undergo an onsite inspection to verify continued compliance with requirements. The inspections are performed by physicians, surgeons and nurses with subject matter expertise. Inspectors were unable to perform the visits due to the risk of exposure to infected patients. Hospitals were diverting resources that would normally be used to prepare for the onsite visits. With this modification, state-verified designated trauma hospitals underwent reverification of their continued compliance with requirements approximately six months later than they would have otherwise under the previous one-year extension. Extending all designations of state-verified trauma hospitals by this additional six months avoided the doubling of needed site visits that would happen this year. This provided relief for hospitals to address pandemic-related needs.

Affects Minnesota Statutes, section [144.603](#).

Modifying and delaying examination requirements for regulated health occupations

The commissioner temporarily modified specific regulatory requirements for licensing audiologists and certifying hearing instrument dispensers currently regulated under Minnesota Statutes, chapters 148 and 153A, through the authority granted in Laws 2020, chapter 74, article 1, section 13. The in-person practical exam that is a requirement of licensure or certification was suspended because of COVID-19 safety concerns. To reduce hardships for providers, HRD allowed qualified applicants to obtain a conditional license before they passed the practical exam; and allowed qualified applicants for hearing instrument dispensing to obtain a conditional certification before they passed the practical exam.

Affected Minnesota Statutes, [chapter 148.515, subd. 6](#); and [153A.14, subd. 2h\(a\)\(2\)](#)