



March 3, 2023

**ILLINOIS HEALTH AND HOSPITAL ASSOCIATION  
M E M O R A N D U M**

**SUBJECT: End of Federal Public Health Emergency and State of Illinois Disaster Proclamation on May 11, 2023**

The federal Public Health Emergency (PHE) and the State of Illinois Disaster Proclamation are scheduled to sunset simultaneously on May 11, 2023. President Biden announced his action to allow the PHE to expire represents the COVID-19 emergency transitioning from pandemic to endemic.

Extraordinary regulatory waivers and flexibilities were granted during the pandemic at both the state and federal levels to allow healthcare providers to respond quickly and effectively to the spread of the virus. Many of those flexibilities have already expired, and others are poised to expire with the expiration of the PHE and Disaster Proclamation.

IHA is coordinating with the American Hospital Association (AHA) at the federal level as AHA seeks to extend or make permanent certain policies that are scheduled to sunset with the PHE. You can view AHA's letter to the U.S. Dept. of Health and Human Services (HHS) advocating for federal action [here](#).

**Federal Waivers**

Federal agencies have issued guidance and resources explaining the impact of the end of the PHE on the federal waivers and flexibilities, including the expiration dates of those that are connected to the PHE, as well as those that are not connected to the PHE. Available guidance and resources include:

- CMS has created a comprehensive [fact sheet](#) regarding the impact of the expiration of the PHE on a host of issues, including COVID-19 vaccines, testing and treatment, telehealth services, healthcare access and other federal repercussions.
- HHS has issued a high-level overview of Federal COVID-19 policies that will and will not expire [here](#).
- The Centers for Medicare and Medicaid Services (CMS) has released [fact sheets](#) that provide information on waivers and flexibilities for various provider types, including which have been terminated, which have already been made permanent, and which will expire with the PHE.
- HHS' Office for Civil Rights (OCR) has issued [guidance](#) discussing permissible post-PHE options due to its relaxation of certain HIPAA privacy and security rules in connection with the PHE [expiration](#).

***Federal Vaccine Mandate for Healthcare Workers***

CMS' COVID-19 vaccination mandate on healthcare workers does not sunset with the PHE. However, CMS has revised its [guidance](#) and survey procedures for all provider types related to assessing and maintaining compliance with the staff vaccination regulatory requirements.

### ***Federal Telehealth***

As referenced by HHS in its telehealth [resource](#), at the federal level, the Consolidated Appropriations Act, 2023, extended federal Medicare telehealth flexibilities through calendar year 2024.

Reimbursement rates that align with in-person rates are guaranteed through the end of 2023, with more information expected to be released in the next physician fee schedule. However, without additional guidance issued by HHS' Office of Inspector General, healthcare providers offering to reduce or waive Medicare beneficiary cost-sharing obligations for telehealth, or remote patient monitoring services, may no longer do so after the PHE ends. At the same time, remote patient monitoring is anticipated to revert to established patients, which was waived for the duration of the PHE. In addition, permissions for virtual direct supervision will expire at the end of this calendar year, unless CMS revises this policy in future rulemaking.

As for a general telehealth change at the federal level, the Drug Enforcement Administration's (DEA) policies permitting health professionals to use remote prescribing for controlled substances without an in-person evaluation are scheduled to sunset when the PHE ends.

On February 24, DEA released proposed rules (summarized [here](#)) that would limit telehealth prescriptions for buprenorphine and other controlled substances following the end of the PHE to a 30-day supply without an in-person visit. A document summarizing highlights for medical practitioners is [here](#). Public comments will be accepted for 30 days. Final rules from the DEA are currently scheduled to take effect when the PHE ends, and healthcare professionals have a 180-day grace period to comply with new requirements.

### **State Waivers**

IHA is also working directly with lawmakers and government officials at the state level on issues related to the expiration of Governor Pritzker's Disaster Proclamation and the various Executive Orders, waivers and flexibilities that derive therefrom. Following are some of the state issues related to the end of this Proclamation on which IHA is engaged:

### ***Medicaid Enrollment***

The continuous enrollment provision for Medicaid, put in place during the pandemic, is due to sunset. This provision allowed Medicaid enrollees to remain covered without redetermination of eligibility during the pandemic. The Consolidated Appropriations Act, 2023, decoupled the Medicaid continuous enrollment requirement from the end of the PHE and allows states to begin ending coverage as early as April 1, 2023.

With continuous enrollment coming to a close, the Illinois Dept. of Healthcare and Family Services (HFS) will be reevaluating eligibility for the almost 4 million Illinoisans currently enrolled in the Medicaid program (a process referred to as “unwinding”), and it is estimated that hundreds of thousands of current Medicaid enrollees may no longer be eligible. CMS previously issued [guidance](#) to state health officials regarding the unwinding process. According to HFS, the first redetermination letters will be sent in March, and the earliest that any current enrollee could lose coverage would be July 1, 2023.

It will be important for any individuals and families who are determined no longer eligible for Medicaid to be transitioned to alternative coverage options, and HFS is already working on strategies to transition Medicaid enrollees to other coverage options, where applicable. CMS’ Center for Consumer Information and Insurance Oversight released an [FAQ](#) announcing a Marketplace Special Enrollment Period (SEP) for individuals who lose Medicaid coverage due to the end of the continuous enrollment period. These individuals will be able to enroll in Marketplace health insurance coverage outside the annual open enrollment period by submitting a new application or updating an existing application of their Medicaid termination by self-attestation.

HFS has advised that it will be launching a year-long advertising [campaign](#) to inform Illinoisans that Medicaid redeterminations are happening and to highlight coverage alternatives. HFS has also issued the following [FAQ’s](#) about Illinois Medicaid and continuous enrollment.

### ***Out-of-State License Waivers***

At the beginning of the pandemic, IHA secured, and Illinois has kept in place, temporary out-of-state license [waivers](#) for various types of healthcare professionals. These waivers have been renewed at various times throughout the pandemic, always with strong support and encouragement from the hospital community.

If no action is taken, the waivers will expire when the PHE expires. These waivers have been a critical component of your ability to respond during the pandemic and IHA is communicating with our partners at the Illinois Dept. of Financial and Professional Regulation (IDFPR) on possible options to extend this flexibility. IHA is also working closely with Representative Bob Morgan, in coordination with IDFPR, on a potential legislative solution that would extend the ability of healthcare professionals practicing in Illinois on out-of-state license waivers to remain eligible to practice in Illinois beyond the end of the Disaster Proclamation on May 11.

IHA is making the case that eliminating this flexibility rendering thousands of nurses and other healthcare professionals ineligible to continue practicing in Illinois, would exacerbate the staffing shortage, risking reductions in services and access to healthcare services.

### ***State Telehealth***

Building on the success of telehealth delivery early in the pandemic, in 2021 IHA led a coalition of healthcare partners to codify new telehealth waivers into state law, including permanent

coverage and payment parity for behavioral health services and permanent coverage for physical health services through commercial payers. Payment parity for physical health services will be effective for another five years. A detailed [summary](#) of the telehealth legislation that IHA successfully passed was issued previously. Under these provisions, commercial payers must cover medically necessary, clinically appropriate telehealth services at the same rate as in-person care. These state telehealth provisions will remain in place after the Governor's Disaster Proclamation ends.

On the Medicaid side at the state level, IHA continues to work with HFS to identify options for continuing or expanding telehealth coverage flexibilities and reimbursements.

### ***Bed and Service Flexibilities***

On February 16, the Health Facilities and Services Review Board (HFSRB) sent a [letter](#) to hospital executives regarding the end of bed and service flexibilities at the conclusion of the Public Health Emergency on May 11. Hospitals have until 30 days after May 11 to notify HFSRB and the Illinois Dept. of Public Health (IDPH) that they are compliant with their authorized number of beds or services. Hospitals wishing to keep their current complement of COVID beds and service lines must take the appropriate regulatory action with HFSRB and IDPH.

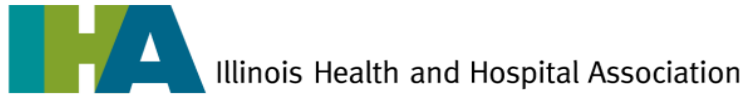
### ***State Vaccination/Testing Mandates for Healthcare Workers***

Although Illinois previously had an Executive Order ([EO 2021-12](#), as amended multiple times) requiring healthcare workers to either be vaccinated or tested weekly, this [expired](#) on Oct. 16, 2022. (The only current state vaccination requirements apply to employees and contractors/vendors of state-owned or congregate facilities operated by the Illinois Dept. of Veterans' Affairs, the Illinois Dept. of Human Services, the Illinois Dept. of Corrections, and the Illinois Dept. of Juvenile Justice.)

As referenced above, the CMS' Federal rule regarding staff vaccination requirements is still in place and remains unaffected by the end of the PHE, though CMS has revised its [guidance](#) and survey procedures for all provider types related to assessing and maintaining compliance with the staff vaccination regulatory requirements.

### ***Masking Rules for Hospitals***

Currently, pursuant to Executive Order ([EO 2021-12](#), as amended by [EO 2022-12](#) and [EO 2022-21](#)), Illinois defaults to CDC [guidance](#) regarding masking in hospitals and other healthcare settings. CDC guidance on masking is based on Community Transmission levels and generally requires that workers mask if the healthcare facility is in a "high" transmission area, but that masking is voluntary if transmission levels are lower than "high." This Executive Order is in effect through March 4, and it is unclear at this time whether Governor Pritzker intends to continue to renew this order until the PHE ends on May 11 or if it will expire sooner.



IHA will continue to track the impact of the expiration of the Federal PHE and Governor Pritzker’s Disaster Proclamation and will provide links to these resources and other related information on IHA’s website at [www.team-iha.org](http://www.team-iha.org).

If you have any questions regarding the end of the PHE/Disaster Proclamation, please feel free to [contact us](#).