



Physicians Caring for Texans

March 29, 2020

The Honorable Greg Abbott
Office of the Governor
P.O. Box 12428
Austin, TX 78711-2428

Re: Texas Health Care Industry COVID-19 Strike Force Recommendation

Dear Governor Abbott:

As representatives of the hundreds of thousands of frontline health care workers across the continuum of care, we thank you for unwavering efforts to assist us in caring for the citizens of Texas during this pandemic crisis. It is with the greatest urgency that we ask you to order and support the use of mass critical care guidelines for care during the COVID-19 emergency. Consensus projections and evidence seen elsewhere demonstrate that our hospital bed capacity and other critical resources around the state will not meet the overwhelming demand in the coming days and weeks.

Thus, the provision of care during this crisis will require triage and physician judgment at the point of patient care. The reality is physicians and the health care facilities or organizations they work within will be forced to make excruciating decisions to allocate limited health care resources, despite your greatest attempts to ensure otherwise. Those painful decisions are easier to face, less variable, and more justly applied when they are based on agreed-upon clinical guidelines.

In Texas, city and county health officials and the greater health care community have developed different mass critical care guidelines over the past decade; all are based on bioethical principles to prioritize the preservation of life as much as humanly possible.

The combined physicians, nurses, hospitals, nursing homes, and home health organizations of Texas ask for your most serious and immediate consideration of the endorsement of the use of community standards of care for decisionmaking. These documents are evidence-based criteria for medical decisionmaking during crisis circumstances, including the COVID-19 public health emergency. They are used only during genuinely extraordinary situations, where demand for intensive care services increases beyond standard operating levels and supplies. Their purpose is to "allocate scarce health care resources (intensive care services, including ventilators) to those who are most likely to benefit medically during a pandemic respiratory crisis or other emergency situation that has the potential to overwhelm available intensive care resources."

The attached guidelines are provided as evidence-based criteria for medical decision-making during crisis circumstances, including the COVID-19 public health emergency, should demand for intensive care services increase beyond standard operating levels and supplies. Every patient should receive all possible respect, care, compassion, and access to care, without regard to race, ethnicity, color, national origin, religion, sex, disability, veteran status, age, genetic information, sexual orientation, gender identity, stereotypes, “worth,” or any other distinguishing characteristic, and in compliance with state and federal regulations, including disaster declarations and endorsements of the use of Critical Care Guidelines. This does not ensure that all patients should or will receive the same treatment under crisis conditions, as decisions would be based on an individualized assessment of the patient. The attached guidelines are an example of what could be used only during genuinely extraordinary situations, where demand for medical care overwhelms available services or supplies.

The steps we ask you to take as soon as feasibly possible are:

- Endorse the use of mass critical care guidelines along with an interpretation that Health and Safety Code 166.009 is the prevailing language on complying with the remainder of that chapter and existing law. This language is intended to allow physicians to stop medically inappropriate treatment for one patient if its provision would deny the same treatment to another patient. Although health care systems and medical societies that have adopted mass critical care guidelines believe 166.009 supersedes other sections of Chapter 166, having your support for that interpretation is important.
- Instruct all relevant agencies and offices to suspend any license reviews, criminal penalties, and civil damages for following mass critical care guidelines. Physicians and providers need to know they will not be subjected to civil/criminal/regulatory review when operating under mass critical care guidelines whose purpose is to save lives while avoiding discrimination.
- Suspend, during the period of this crisis, laws and rules applicable to advanced practice professionals (advanced practice registered nurses and physician assistants) (1) to permit those who prescribe under the delegation and supervision of a licensed physician and are appropriately credentialed by the facility (if any) to write inpatient and outpatient schedule II prescriptions, and (2) to permit that under a physician’s delegated authority and supervision, advanced practice professionals may sign inpatient and outpatient do-not-attempt-resuscitation (DNAR) orders without physician countersignature. This is temporarily requested because of expected severe staff shortage of physicians as they also develop COVID and cannot report for duty.

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We thank you for your expedient consideration and remain available to work with your office, Nim Kidd, Commissioner Hellerstedt, and related agencies on the broad range of Texas' responses to the COVID-19 crisis.

Sincerely,

Texas Medical Association
Texas Hospital Association
Texas Nurses Association
Texas Association of Health Plans
Texas Association of Community Health Plans
Texas Health Care Association
Texas Association of Community Health Centers
Texas Association for Home Care & Hospice
LeadingAge Texas
Texas A&M System
Texas Tech Health Science Center
University of Texas System

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