



## FAQs on Providing Services During the COVID-19 Emergency

### *Clarifications for Governor Abbott's Executive Order GA 27*

The Texas Hospital Association offers answers to member hospitals' questions about Gov. Greg Abbott's Executive Order GA 27, effective at 11:59 p.m. CDT on June 26, related to hospital capacity and the permissibility of performing certain surgeries and procedures in Cameron, Hidalgo, Nueces, Webb, Bexar, Dallas, Harris or Travis counties during the COVID-19 pandemic.

#### **1. Where can I find GA 27?**

GA 27 may be accessed [here](#). The governor's June 30 proclamation, adding counties to the order, may be found [here](#).

#### **2. What does GA 27 require?**

Each hospital licensed under chapter 241 of the Health & Safety Code and located in Cameron, Hidalgo, Nueces, Webb, Bexar, Dallas, Harris or Travis counties must postpone all surgeries and procedures that are **not** medically necessary to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who without timely 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, by its explicit terms, GA 27 does not prohibit any surgery or procedure that, if performed in accordance with the commonly accepted standard of clinical practice, would not deplete any hospital capacity needed to cope with the COVID-19 disaster.

The governor may add or subtract to the list of counties covered by this order.

#### **3. How long will GA 27 remain in effect?**

GA 27 remains in effect and in full force until it is modified, amended, rescinded or superseded by the Governor. Therefore, GA 27 does not have an end date noted in the order.

#### **4. What are the penalties for violating GA 27?**

GA 27 states that failure to comply with any executive order issued during the COVID-19 disaster is an offense punishable under Section 418.173 of the Government Code by a fine not to exceed \$1,000, and may be subject to regulatory enforcement.

#### **5. What surgeries and procedures may proceed under GA 27?**

Surgeries and procedures that are medically necessary to diagnose or correct a serious medical condition of, or to preserve the life of, a patient who without timely 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 terms “procedure” and “surgery” are not defined in GA 27. The only guidance THA is aware of is prior TMB guidance for rescinded executive order GA 15 that indicated “[a] ‘procedure’ does not include physical examinations, non-invasive diagnostic tests, the performing of lab tests, or obtaining specimens to perform laboratory tests.”

**6. Does GA 27 apply to outpatient surgeries and procedures?**

Currently, there is no distinction in GA 27 between inpatient and outpatient surgeries or procedures.

Note: a hospital outpatient department or other facility operating under the hospital’s chapter 241 license is likely covered by GA 27.

**7. Has HHSC or TMB issued rules or guidance?**

No. THA does not expect guidance related to GA 27 from either the Texas Health and Human Services Commission or the Texas Medical Board.

**8. How do I know if a surgery or procedure may proceed?**

THA developed the following as a tool to assist decision-making, and reminds members that judgment may be used in making a determination:

1. Acts such as acquiring a patient’s history, a physical exam, non-invasive diagnostic, lab test, or other procedure that does not deplete hospital capacity needed to cope with COVID-19 should be outside of GA 27’s scope.
2. A surgery or procedure determined by a physician to be medically necessary to diagnose or correct a serious medical condition, or to preserve the life of a patient who without timely performance of the surgery or procedure would be at risk for serious adverse medical consequences or death should be permissible under GA 27. The medical necessity should be documented in the medical record.
3. If the procedure is performed in accordance with the commonly accepted standard of clinical practice and would not deplete any hospital capacity needed to cope with the COVID-19 disaster, the procedure should be permissible under GA 27.

**9. What precautions should a hospital take in moving forward with a surgery or procedure under GA 27?**

Remember that “documentation is key” to ensure a surgery or procedure does not violate GA 27. It is important that the medical record clearly show why the performance of a surgery or procedure was necessary to diagnose or correct a serious medical condition, preserve the life of a patient or avoid serious adverse medical consequences or death.

The patient’s physician must make these determinations, and this documentation could include information on the patient’s medical history, prescriptions, lab results, imaging or other relevant factors used to make the determination of the necessity of the surgery or procedure.

Additionally, the hospital should determine and document that the surgery or procedure will not deplete hospital capacity needed to cope with the COVID-19 disaster – especially in light of continuing obligations under GA 19, as set forth in the following question.

**10. Must a hospital continue to “reserve at least 15% of its hospital capacity”?**

Yes, [GA 19](#) remains in effect and was not superseded by GA 27. THA has created [guidance](#) related to GA 19.

**11. Do other executive orders remain in place?**

GA 27 states that [GA 10](#), [GA 13](#), [GA 17](#), GA 19, [GA 24](#), [GA 25](#) and [GA 26](#) remain in effect.

**Contact a member of THA’s advocacy & legal teams for additional information:**

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