



May 06, 2020

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West Virginia Reopens Outpatient Health Care Services

West Virginia continues to gradually and safely reopen health care services. Governor Jim Justice first authorized on April 20 the reopening of elective surgeries in hospitals and ambulatory surgery centers which are licensed or certified by the West Virginia Department of Health and Human Resources (“DHHR”), upon meeting [certain criteria](#) and approval by DHHR. Second, Governor Justice authorized on April 27 the reopening of outpatient health care at clinics, physician offices and other health care centers operated by licensed health care professionals, effective as of April 30, provided that the licensees can meet certain criteria to be announced by their respective licensing boards.

The West Virginia Board of Medicine (“BOM”) announced the following criteria on April 29 for physicians to reopen their offices and resume services:

- Compliance with guidance published by the American College of Surgeons;
- Compliance with CMS recommendations regarding reopening facilities to provide non-emergent health care services;
- Compliance with the joint statement on resuming elective surgery published by the American College of Surgeons;
- Compliance with other safety protocols briefly outlined in the BOM guidance, including:
 - maintaining an appropriate physical distance;
 - modifying the physical environment of waiting areas to facilitate social distancing;
 - maintaining and modifying office traffic flow patterns and avoiding unnecessary engagement at check-in and check-out;
 - providing hand sanitizer and personal protective equipment (PPE) to patients that do not have these items and requiring patients entering the office practice

- to wear an appropriate face covering;
- prohibiting others accompanying adults into the medical office unless required as a reasonable accommodation;
- assuring that adequate PPE is available; and
- implementing universal masking for providers and staff.

Physicians can address some of these compliance concerns quickly with minor modifications to their practice. However, some of these issues will require significant planning and resources prior to implementation. It is important for physicians reopening their offices and clinics to demonstrate compliance with these guidelines to the fullest extent practicable to avoid licensure sanctions, reduce potential exposure to their clients and minimize risk.

Other licensed professionals in West Virginia that are subject to the recent executive order for reopening outpatient health care services include: acupuncturists, chiropractors, counselors, dentists, dietitians, hearing aid dealers, licensed practical nurses having an independent practice, radiation therapists, occupational therapists, optometrists, osteopathic physicians, pharmacists, physical therapists, psychologists, licensed professional nurses, respiratory therapists, social workers and speech pathologists. Each of these licensed professionals should consult their respective licensing boards to obtain guidance for reopening their offices and practices.

For more information, contact [Charles M. Johnson](#) of Frost Brown Todd's [Health Care Innovation](#) team.

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are on hand to answer your questions and provide guidance on how to proactively prepare for and manage any coronavirus-related threats to your business operations and workforce.

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