§ 131E-84. Waiver of rules and increase in bed capacity during an emergency.

(a) The Division of Health Service Regulation may temporarily waive, during disasters or emergencies declared in accordance with Article 1A of Chapter 166A of the General Statutes, any rules of the Commission pertaining to a hospital to the extent necessary to allow the hospital to provide temporary shelter and temporary services requested by the emergency management agency. The Division may identify, in advance of a declared disaster or emergency, rules that may be waived, and the extent to which the rules may be waived, upon a declaration of disaster or emergency in accordance with Article 1A of Chapter 166A of the General Statutes. The Division may also waive rules under this subsection during a declared disaster or emergency upon the request of an emergency management agency and may rescind the waiver if, after investigation, the Division determines the waiver poses an unreasonable risk to the health, safety, or welfare of any of the persons occupying the hospital. The emergency management agency requesting temporary shelter or temporary services shall notify the Division within 72 hours of the time the preapproved waivers are deemed by the emergency management agency to apply.

(a1) In the event of a declaration of a state of emergency by the Governor in accordance with Article 1A of Chapter 166A of the General Statutes, a declaration of a national emergency by the President of the United States, a declaration of a public health emergency by the Secretary of the United States Department of Health and Human Services; or to the extent necessary to allow for consistency with any temporary waiver or modification issued by the Secretary of the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services under section 1135 or 1812(f) of the Social Security Act; or when the Division of Health Service Regulation determines the existence of an emergency that poses a risk to the health or safety of patients, the Division of Health Service Regulation may do either or both of the following:

(1) Temporarily waive any rules of the Commission pertaining to hospitals.

(2) Notwithstanding G.S. 131E-183, allow a hospital to temporarily increase its bed capacity.

(a2) Notwithstanding any other provision of this section or the General Statutes, in the event the Secretary of the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services issues a temporary waiver or modification under section 1135 or 1812(f) of the Social Security Act, the corresponding rule or portion of a rule adopted by the Commission pertaining to hospitals is automatically modified or waived to the extent necessary to allow for consistency with the federal waiver or modification and shall continue in place at least until the federal waiver or modification has expired. Nothing in this subsection shall be construed as preventing the Division of Health Service Regulation from further waiving or modifying any rules of the Commission.

(b) As used in this section, "emergency management agency" is as defined in G.S. 166A-19.3. (2007-444, s. 2; 2012-12, s. 2(t); 2022-74, s. 9E.2(c); 2025-18, s. 5.)