Healthcare Law Alert: NJSBOD Issues COVID-19 Advisory for NJ Dental Professionals

March 24, 2020

On March 21, 2020, the New Jersey State Board of Dentistry (NJSBOD) issued a COVID-19 Advisory for New Jersey Dental Professionals, in light of the rapid spread of the novel coronavirus disease (COVID-19) which has "raised many questions and concerns by dental practitioners and the public." The NJSBOD stated that it has been "actively monitoring events and recommendations of federal, state, and public and private entities, and has been working with other government agencies to develop the recommendations" provided by the NJDBOD in the Advisory. The board stated that the recommendations are consistent with revised CDC guidelines, which direct dentists to prioritize urgent and emergency visits during the health crisis. The recommendations are as follows:

- Dentists should cancel or postpone any elective procedure or "routine" service until at least April 20, 2020, to limit exposure to and transmission of the virus and help preserve and extend the supply of personal protective equipment.
- Dentists should provide emergency care to their existing patients and others seeking urgent care.
- Patients must be able to reach their dental provider, who should assess the issue/condition and determine whether there is a need for emergency treatment.
- Dentists should maintain open lines of communication for patients, whether by website, email, text and/or office voice mail, advising of limited operations during the state of emergency.
- Dentists should screen patients for symptoms of illness and/or contacts with possibly infected persons.
- Dentists should evaluate patients' health and assess whether treatment is warranted and safe, and obtain medical consults, as appropriate.
- Dentists should monitor the health of staff and segregate duties and shifts in order to limit exposure to the virus.
- Dentists and staff should stay home if sick or showing symptoms, or if a member of their household is ill.
- Dentists should follow CDC guidelines for infection control, using personal protective equipment, as appropriate. Treatment should be referred to another dental professional, if appropriate PPE is unavailable.
- Dentists providing emergency treatment should employ appropriate precautions to minimize aerosolization.

The NJDBOD declined to provide a specific list of procedures that would be deemed essential versus non-essential, leaving such decision in the clinical judgment of the practitioner based on his or her training and experience. However, the NJDBOD stated that "if a procedure can be delayed for 30 days without, in the clinical judgment of the dentist, running an undue risk of harm to the patient, it is non-essential."

Gov. Murphy Issues Executive Order

On March 23, 2020, Governor Murphy issued Executive Order 109, which, in relevant part, restricts elective surgeries on adults and "elective" invasive procedures performed on adults, both medical and dental, beginning at 5:00 p.m. on March 27, 2020.

Elective Surgeries and Procedures

Per the Executive Order:

Beginning at 5:00 p.m. on Friday, March 27, 2020, all "elective" surgeries performed on adults, whether medical or dental, and all "elective" invasive procedures performed on adults, whether medical or dental, are suspended in the State. An "elective" surgery or invasive procedure, for purposes of this Order, is defined as any surgery or invasive procedure that can be delayed without undue risk to the current or future health of the patient as determined by the patient's treating physician or dentist. An "elective" surgery or invasive procedure does not include the administration of vaccines.

Further:

Providers planning or determining whether to perform surgery and invasive procedures in their offices must also consider any possible post-operation complications that may place additional stress on local hospitals that do not have the capacity to accept transfers and need to coordinate any possible post-operation admissions with local hospitals prior to performing surgeries or invasive procedures. Ambulatory surgery centers are to coordinate any possible post-surgery admissions with local hospitals prior to performing any surgery or invasive procedure...All elective surgeries or invasive procedures, whether medical or dental, already scheduled for after 5:00 p.m. on Friday, March 27, 2020, are to be cancelled or postponed indefinitely. Facilities are to immediately notify all patients and providers that have scheduled elective surgeries or invasive procedures that these operations cannot proceed as scheduled under the terms of this Order.

Inventory of PPE, Ventilators and Other Equipment

The Executive Order also requires that:

Any business or non-hospital health care facility, including but not limited to dental facilities, construction facilities, research facilities, office-based healthcare or veterinary practices, and institutions of higher learning, in possession of PPE, ventilators, respirators, or anesthesia machines that are not required for the provision of critical health care services should undertake an inventory of such supplies and send that information to the State by no later than 5:00 p.m. on Friday, March 27, 2020. The Office of Emergency Management shall establish a process by which entities subject to this provision can submit this information.

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