



Sept. 20, 2022

Executive Director Jill Ryan
Colorado Department of Public Health and Environment
Via email to: jill.hunsakerryan@state.co.us

Executive Director Ryan:

Thank you for your recent letter to Colorado hospitals regarding their preparedness for monkeypox. As you are aware, hospitals are carefully monitoring and managing the monkeypox threat. Leadership and clinical teams are prepared for a wide variety of public health challenges as they demonstrated during COVID. In fact, Gov. Polis and others in state government have expressed gratitude for the weight hospitals have carried in responding to and getting ahead of the pandemic.

Hospitals stepped up during COVID because it is their mission to do so, and they were pleased to partner with the state in a productive way for Colorado. With that same commitment, hospitals will continue to address any and all manner of emergencies from communicable diseases to mass casualty events. CHA's members are ready 24/7/365 because that is their obligation and daily priority.

Every Colorado hospital has emergency plans in place to manage communicable diseases. Not every hospital has created a monkeypox-specific plan, however, because of their limited experience with patients needing treatment, as well as state and national trending that shows a geographically limited outbreak with decreasing prevalence over time (versus an expected uptick). Hospitals that serve communities where the need is greater have been planning for and managing monkeypox for weeks, providing testing, vaccination and treatment. Like other diseases, monkeypox lends itself to a hub-and-spoke model that helps to maximize resources and provide care most effectively and efficiently.

Given these circumstances and hospitals' collective commitment and action to manage monkeypox cases, we have concerns with the Department requiring all hospitals to submit a disease-specific action plan. Legislation passed by the Colorado General Assembly earlier this year supports a coordinated public-private response to "declared statewide public health emergenc[ies]" to ensure sufficient hospital capacity and access to available testing, vaccines, and treatment. House Bill 22-1401, codified at 25-3-128, C.R.S. *et seq.*

The law specifically requires a hospital to "update its emergency plan at least annually and as often as necessary, as circumstances warrant" and include in such plans provisions for providing testing, vaccine administration, and clinical treatments in response to public health emergencies under a limited set of circumstances. 25-3-128(7), C.R.S.; 25-3-128(8b-c), C.R.S.

When read in its entirety, the law's requirement for hospitals to provide testing, vaccinations, and treatment is predicated on 1) a threat to inpatient bed capacity; 2) authorities granted to the state only through the declaration of a public health emergency; or 3) rules promulgated by the

Department consistent with the statute. **Because none of these express criteria are met, CDPHE may not “invoke” the law to create new requirements for hospitals.** To overstate the law and issue requirements outside of these guardrails is inconsistent with common practice for “all hazards” emergency preparedness and is contrary to public policy and the efficient use of limited health care resources. See e.g., 25-3-128(7); 25-3-128(8b-c); 24-33.5-704, respectively.

We believe that your Sept. 6 letter to all Colorado hospitals overstates the law’s requirements for reporting additional information and developing multi-location testing, vaccine, and treatment protocols specific to Monkeypox in three key respects:

- 1) By disregarding the legislature’s intent to tie expanded hospital obligations to threats to hospital inpatient bed capacity.
- 2) By disregarding the importance of a public health emergency declaration by a state official.
- 3) By ignoring the statute’s requirement that the Board of Health promulgate rules implementing this section of the law prior to the Department exercising its authority.

CHA acknowledges CDPHE has authority under the law to conduct complaint-based surveys and reviews of existing hospital emergency plans, which is the Department’s available tool to assess hospital compliance with the law if any concerns have been identified.

Our concerns are centered on the Department's Sept. 6 request of hospitals because, in the absence of following guardrails expressly created in the law, we believe it overreaches both the letter and intent of the law as summarized above. We also believe that hospitals have demonstrated their ability and willingness to provide care for Coloradans through this and many other types of emergencies.

We welcome further dialogue and collaboration on monkeypox and other emergencies that works to strike the right balance between an effective response and new and unnecessary burden imposed on hospitals through the Department’s request.


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