

Bill	<b>SB 56: Extending Public Health Disaster Emergency Declaration</b>
Position	ASHNHA strongly supports SB 56 and urges lawmakers to move with haste to pass the bill
Summary	SB 56 extends the existing public health disaster emergency declaration to September 30, 2021. The declaration allows Alaska's health care system to access critical operational flexibilities at the federal level, and key licensing and telehealth flexibilities at the state level. If SB 56 is not passed, hospitals and nursing homes' compliance with federal requirements will be in question, and this uncertainty may force a drastic curtailment of COVID operations.

## ANALYSIS

### What does this legislation do?

Senate Bill 56 (SB 56) extends the existing public health disaster emergency declaration issued by the Governor on January 15, 2021 to September 30, 2021.

### Why is this legislation important?

In recognition of the present outbreak of COVID-19, and the credible threat of a greater, imminent outbreak from variant strains, the public health disaster emergency declaration in SB 56 allows Alaska's health care system to access (1) critical operational flexibilities at the federal level, and (2) key licensing and telehealth flexibilities at the state level.

If SB 56 is not passed, hospitals and nursing homes' compliance with federal requirements will be in question. This will place hospitals, nursing homes, and other health care providers into a position of great uncertainty, and potentially force a drastic curtailment of COVID operations.

### Is having an emergency declaration in place unusual?

No. As of January 29, 2021, the National Governors Association reported that every state in the union has an active emergency declaration in place.

### What are the federal flexibilities?

Early in the pandemic, the Centers for Medicare & Medicaid Services (CMS) issued approximately 125 "blanket waivers" for 32 categories of health care services and provider types. Pursuant to section 1135 of the Social Security Act, the federal blanket waivers are automatically in effect for all states, and modify or set aside a variety of federal requirements that "pose issues or challenges for the health care delivery system." See [CMS Letter to Commissioner Crum, April 2, 2020](#). These primarily affect requirements for individual facilities, such as hospitals, long term care facilities, and home health agencies. *Id.*

## Why could we lose the federal flexibilities without SB 56?

CMS' blanket waivers include the following language in 20 specific waiver flexibilities: "This waiver [or these flexibilities] may be implemented so long as it is not inconsistent with a state's emergency preparedness or pandemic plan." [CMS Fact Sheet](#).

If the State no longer formally recognizes the existence of a public health disaster emergency in Alaska, then it is reasonable to believe that the CMS blanket waivers are "inconsistent with" the state's emergency preparedness or pandemic plan because, again, there is no longer an active "emergency" for which a plan is required.

## What happens if we lose the federal flexibilities?

If the blanket waivers are no longer available to Alaska health care facilities and providers, effects could include:

1. Closure of alternate care sites for screening and testing – there would be no waiver of provisions of the federal Emergency Medical Treatment & Labor Act (EMTALA) that allows screening of patients at locations offsite from a hospital campus
2. Severe reduction in surge capacity and quarantine units – there would be no waiver of certain physical environment requirements under Medicare conditions of participation to allow for surge capacity and patient quarantine in facility and non-facility space
3. Limitations on practitioners and health care workforce – there would be no waiver of requirements under 24 CFR §482 to allow use of practitioners to the fullest extent possible

Not extending the emergency declaration also sends inconsistent signals to the public that an otherwise active pandemic is over, and could compromise future funding opportunities from the federal government.

## What are the state flexibilities?

SB 56 contains key provisions that provide flexibilities for professional and occupational licensing (Section 5), telemedicine and telehealth (Section 6), and fingerprinting (Section 7).

## What happens if we lose the state flexibilities?

If the state flexibilities are no longer available, effects could include:

1. Ability to staff up for a surge and reinforce workforce is diminished – prior to the pandemic, providers expressed concerns about the length of time for licensing. SB 56 expedites licensing and fingerprinting, especially for those with a license in good standing elsewhere
2. Telehealth services will be limited – telehealth has been indispensable in the pandemic, and without SB 56, the ability to deliver expanded services in rural Alaska, especially for behavioral health, will be compromised