

Title	Doc. Number	Page Number
Disaster Exemption for Temporary Bed Increases	OLC-1005-G	1 of 3
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## Table of Contents

1.0	Purpose.....	1
2.0	Scope .....	1
3.0	Definitions .....	1
4.0	Authorities .....	2
5.0	Policy.....	2
5.1	Request for disaster exemption by a licensed entity .....	2
5.2	State of emergency declared by Governor of Virginia .....	3
5.3	State of emergency declared by a neighboring state governor .....	3
5.4	Multiple state of emergency declarations .....	3
5.5	Notice of temporary bed increases pursuant to a disaster exemption.....	3
6.0	Forms and Templates .....	3
7.0	References.....	3
8.0	History.....	3

### 1.0 Purpose

This document was created to implement the processes by which disaster exemptions are granted, so that licensed entities temporarily increasing beds in excess of their approved bed counts in response to a disaster are not in violation of applicable laws and regulations.

### 2.0 Scope

This document applies to all licensed entities in the Commonwealth of Virginia. This document supplements any agency-wide policy on disasters and exemptions from the licensure and Certificate of Public Need programs. To the extent there is a conflict between an agency-wide policy and this policy, the agency-wide policy supersedes.

### 3.0 Definitions

**Licensed entities:** An inpatient hospital or nursing home licensed to operate in the Commonwealth of Virginia.

**Man-made disaster:** A condition following an attack by any enemy or foreign nation upon the U.S. resulting in substantial damage of property or injury to persons in the U.S. and may be by use of bombs, missiles, shell fire, nuclear, radiological, chemical, or biological means or other weapons or by overt paramilitary actions; terrorism, foreign and domestic; also any industrial, nuclear, or transportation accident, explosion, conflagration, power failure, resources shortage, or other condition such as sabotage, oil spills, and other injurious environmental contaminations that threaten or cause damage to property, human suffering, hardship, or loss of life.

Natural disaster: Any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, communicable disease of public health threat, or other natural catastrophe resulting in damage, hardship, suffering, or possible loss of life.

Neighboring state: A jurisdiction that shares a land border with Virginia, i.e. West Virginia, Kentucky, Tennessee, North Carolina, Maryland, and the District of Columbia.

Office of Licensure and Certification (OLC): An office within VDH that administers licensing programs for hospitals, outpatient surgical hospitals, nursing facilities, home care organizations, abortion facilities, and hospice programs; administers certification and registration program for managed care health insurance plans and private review agents; administers the certificate of public need program; and is the state survey agency for Medicare and Medicaid.

State Health Commissioner (Commissioner): A gubernatorial appointee who is the executive officer of the State Board of Health.

Virginia Department of Health (VDH): An executive branch agency in the Commonwealth of Virginia that assists the State Board of Health and State Health Commissioner with administering and providing a comprehensive program of preventive, curative, restorative and environmental health services; educating the citizenry in health and environmental matters; developing and implementing health resource plans; collecting and preserving vital records and health statistics; assisting in research; and abating hazards and nuisances to the health and to the environment, both emergency and otherwise.

#### 4.0 Authorities

Code of Virginia §§ [32.1-102.2\(A\)\(7\)](#) and [32.1-127\(B\)\(24\)](#)

[12VAC5-220-100\(B\)](#)

[12VAC5-371-40\(J\)](#)

[12VAC5-410-110\(C\)](#)

#### 5.0 Policy

For a licensed entity to increase its bed count, it must first be granted a Certificate of Public Need for the increase and then subsequently be issued a license. However, the Commissioner has the authority to grant a disaster exemption to this process for a period not longer than 30 days. For a disaster exemption to be in effect, the Commissioner must have made a determination that (i) a natural or man-made disaster has caused the evacuation of a hospital or nursing home and (ii) a public health emergency exists due to a shortage of hospital or nursing home beds. The Commissioner has delegated the authority to grant a disaster exemption pursuant to Section [5.1](#) below to the director of VDH OLC.

##### 5.1 Request for disaster exemption by a licensed entity

Any licensed entity may request that the Commissioner grant a disaster exemption. The Commissioner has the discretion to limit a disaster exemption under this section to specifically named licensed entities

Doc. Number	Rev. Number	Eff. Date	Page Number
OLC-1005-G	1.00.00	January 9, 2020	2 of 3

or to a specified geographic region. The form [Request for Disaster Exemption, OLC-1006-F](#), is VDH OLC's preferred method by which a licensed entity can request a disaster exemption determination.

### 5.2 State of emergency declared by Governor of Virginia

If the Governor of Virginia declares a state of emergency due to a natural or man-made disaster, it is presumed that the Commissioner has made the requisite determination and has granted a disaster exemption. The disaster exemption will be effective as of the date of the Virginia governor's state of emergency declaration and will expire 30 days from the date of that declaration.

### 5.3 State of emergency declared by a neighboring state governor

If the governor of a neighboring state declares a state of emergency due to a natural or man-made disaster, it is presumed that the Commissioner has made the requisite determination and has granted a disaster exemption. The disaster exemption will be effective as of the date of the neighboring state governor's state of emergency declaration and will expire 30 days from the date of that declaration.

### 5.4 Multiple state of emergency declarations

Each disaster exemption granted under Sections [5.1](#), [5.2](#), or [5.3](#) is independent from one another, and the duration of each disaster exemption runs separately from any other disaster exemption that is concurrently in existence.

### 5.5 Notice of temporary bed increases pursuant to a disaster exemption

Licensed entities are strongly encouraged to notify VDH OLC if they intend to utilize the disaster exemption granted pursuant to Sections [5.2](#) or [5.3](#). A licensed entity that has been granted a disaster exemption under Section [5.1](#) is presumed to be utilizing the disaster exemption and further notification is not necessary. The form [Notification of Utilization of Disaster Exemption, OLC-1007-F](#), is VDH OLC's preferred method by which a licensed entity can provide notice.

## 6.0 Forms and Templates

[Request for Disaster Exemption, OLC-1006-F](#)

[Notification of Utilization of Disaster Exemption, OLC-1007-F](#)

## 7.0 References

None.

## 8.0 History

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1.00.00	1/9/20	Allen, Rebekah E.	Beazley, Kimberly	Hilbert, Joseph	Document creation

Doc. Number	Rev. Number	Eff. Date	Page Number
OLC-1005-G	1.00.00	January 9, 2020	3 of 3