



## MMA Sends Governor Bullock Letter Outlining COVID-19 Asks

Dear Governor Bullock,

The Montana Medical Association, on behalf of its physician members, thank you for your leadership during the current COVID-19 pandemic. We appreciate the executive orders signed to expand telehealth and support the approach taken by Montana's public health officials as the state of Montana takes quick action on this evolving public health crisis. This assertive approach was broadened with the issuance of a 'shelter in place' and we want to present other actions for your consideration to effectively fight the coronavirus.

Physicians have been on the forefront of the COVID-19 pandemic since the virus first entered the state. Reflecting on these experiences and current medical knowledge, we request your use of executive powers to further assist us in this fight. We are proposing the below policy recommendations, in addition to actions your administration has already taken, be implemented during this state of emergency to flatten the curve and slow down the progression of COVID-19 in Montana.

**(1) Access to Personal Protective Equipment:**

- Provide shipments of personal protective equipment to independent physician clinics. Shipments of PPE from emergency stockpile were sent to hospitals and federally qualified health centers. Patients have been going to independent clinics for screening. Some clinics have found the local hospital unwilling to share the PPE distributed by state of Montana, putting independent clinic health care workers screening for COVID-19 at **risk**.

**(2) Provide Economic Security for Independent Physician Clinics:**

- Speed on getting Medicaid payments. There is a lack of cash as outpatient care is being delayed, and suggest advance pay of 2020 Medicaid payment at 2019 payment rate to ensure independent practices can remain open.
- Telemedicine reimbursement at inpatient rate for Medicaid, Medicare, Medicare Advantage, private insurers and ERISA covered plans. Your assistance is needed to address ERISA plans as not under state authority.

- Waive all prior authorizations in Medicaid to save administrative dollars. Elective surgeries are being postponed; transportation that is happening is for needed medical care.
- Offer low interest loans to keep clinics open and avoid layoffs of staff.

**(3) Be Flexible on the Use of Telemedicine Services to Deliver Patient Care:**

- Clarify that Medicaid telehealth services can occur, and be paid for at in-office rates, between physicians from their homes and patients at home through any medium available and utilizing unencrypted software platforms (phones, tablets, etc.).
- Clarify that Medicaid telehealth services can occur, and be paid for, between mental health workers from their offices or homes and patients at home through any medium available and utilizing unencrypted software platforms (phones, tablets, etc.).
- Temporary suspension, to the extent that doing so is necessary in responding to the emergency, of ARM **24.156.813 (4)**, which provides: The licensee using telemedicine in patient care may prescribe Schedule II drugs to a patient only after first establishing a physician-patient relationship through an in-person encounter which includes a medical interview and physician examination. We ask that the in-person encounter requirement be suspended in line with the flexibilities noted above to provide services effectively through telemedicine means.
- Clarification or allowance of Medicaid visits to occur, and be paid for, between physicians and patients in patient's home (house calls). Related is an encouragement of Health Corp registration under ARM 24.156.637.
- Allow for more robust physician-to-physician tele-consultation, and payment for, to give medical advice about specific patients they have not seen.
- Provide grant funding to pay for telemedicine set-up and subscriptions on secure platforms.

**(4) Ensure Access to Care:**

- Promote access to available COVID-19 testing by ensure all payers, public or private, are processing and paying COVID-19 promptly.
- Suspend bundling of MAT services with the requirement of obtaining a monthly set of vitals. Allow for quarterly patient visits based on stability of patient as determined by medical professional.
- Ensure access to anesthesia services by expanding ARM 37.106.514 (3) to include anesthesiologist assistant ("AA") holding an active license in any state to be qualified to administer anesthesia during this crisis. As Anesthesiologists become quarantined, AAs should be an option.
- Allow Licensed Addiction Counselors to provide, and get paid for, behavioral health therapy under Medicaid.
- Streamline and expedite licensure applications and suspend application fees for physicians, retired within 5 years, to register and practice temporarily or to participate in Montana Health Corps; relax administrative rules that limit services provided or location of services. 37-3-801 through 807, MCA.
- Explore malpractice coverage for physicians who do not have current coverage through state government or under federal tort.
- Allow use of alternate sites, like ambulatory surgery centers, to provide inpatient services through relaxation of applicable laws or rules.
- Allow for more robust physician-to-physician tele-consultation, and payment for, with liability protection on giving medical advice about specific patients they have not seen.
- Allow for physician-to-physician just-in-time training and support avenues through televideo, such as Project Echo, and provide payment by Medicaid.
- Extend the state law immunity for volunteer health care workers to independent clinics and unregistered facilities.
- Allow for reimbursement and public health coordination of temporary rural hospital sites needed due to limited bed availability.
- Allow for transportation cost payment to transfer patients to rural tertiary hospitals with bed capacity or a temporary hospital and medical expertise to manage care to free up beds for more severely ill patients at urban site.

**(5) Boost and Support Montana's Healthcare Workforce:**

- Expedited licensure for recently retired physicians (5 years and under).
- Expedited full licensure for physicians holding inactive license.
- Expedited licensure/reciprocity for out of state physicians, in addition to the registration process now in place.

- Emergency rulemaking to allow physicians completing 2 years of residency to get an active license.
- Fund just-in-time CME to physicians who may be asked to practice in new environments.
- Quick retraining of certain specialties to help in needed areas, such as running ventilators.
- Provide payments for temporary housing for physicians near hospitals (campers, hotels) to address concerns on exposure to families.
- Provide funding to develop and distribute online trainings for donning PPE, managing infections, and crisis communications.
- Provide funding for physician wellness programs and support counseling, recognizing over half of physicians are already experiencing symptoms of burn-out

**(6) Economic Security for individual physicians diagnosed with COVID-19, and their families:**

- Waive medical loan repayment cap on Montana Rural Primary Incentive Program.
- Prioritize for receipt of State Loan Repayment Program funds.

**(7) Relax Privacy Laws during the crisis:**

- To align with the legislative changes and administrative guidance from the federal level pertaining to HIPAA requirements, provide commensurate relaxation of Montana privacy laws pertaining to the disclosure of Protected Health Information and the security rules pertaining to encrypted transmission.
- Declare that Montana will exercise enforcement discretion regarding the provisions contained in 50-16-801 et seq, MCA, which are in some respects more restrictive than HIPAA, including but not limited to the manners in which health care information can be disclosed for law enforcement purposes.
- Declare that Montana will exercise enforcement discretion regarding the provisions contained in 50-16-501 et seq, MCA, which apply to health care providers not subject to HIPAA, to align application of Montana law to the relaxed requirements under HIPAA applicable to covered entities.

Please contact Jean Branscum at [jean@mmaoffice.org](mailto:jean@mmaoffice.org) with any questions and how we can assist in moving these items forward. We again extend our gratitude for your efforts.

Marc Mentel, DO MMA President

## MMA to Meet with Sen. Tester Wednesday, April 1<sup>st</sup> – Questions Sought

Jean Branscum and the MMA Executive Committee will be speaking to Sen. Tester on Wednesday regarding COVID-19. If you have information to share about what is happening on the front lines and what might be done to assist from a national level, please email Jean at [jean@mmaoffice.org](mailto:jean@mmaoffice.org) and use the subject line “Questions for Tester.”

## FDA Creates Policy for Diagnostic Tests for Coronavirus Disease-2019 During the Public Health Emergency

The U.S. Food & Drug Administration (FDA) created a policy and guidance notice that is in effect for Clinical Laboratories, Commercial Manufacturers, and FDA Staff. The FDA issued this guidance to provide a policy to help accelerate the availability of novel coronavirus (COVID-19) diagnostic tests developed by laboratories and commercial manufacturers during the public health emergency. Click [here](#) to read the policy and associated documents.

# FDA Issues FAQs on Diagnostic Testing for SARS-CoV-2 and FAQs on COVID-19

The FDA has created a facts and questions (FAQs) domain on its website. It features questions and answers about general information, FDA-approved drugs, vaccines, and medical device.

Click [here](#) for Coronavirus Disease 2019 (COVID-19) Frequently Asked Questions page.

Click [here](#) for FAQs on Diagnostic Testing for SARS-CoV-2 page.

## FDA URGENT UPDATE DIAGNOSTIC TESTING: LAST UPDATED 03.26.2020

### ***COVID-19 FACT SHEET: Information for Healthcare Providers, Healthcare Systems, and Laboratories Following Updated FDA Recommendations for SARS-CoV-2 Diagnostic Testing***

As part of the FDA COVID-19 response efforts, the U.S. government continues to prioritize efforts to expedite patient testing. Experts continue to work tirelessly during this dynamic and evolving situation. This includes adapting to supply chain pressures and continuing to evaluate options for sample collection as well as working with stakeholders on efforts to facilitate greater access to these critical medical products.

On March 23, 2020, additional types of swabs were added to the FDA's recommendations for SARS-CoV-2 diagnostic processes. These recommendations provide additional options for sampling that, based on industry data, are more readily available and may also lessen exposure risks by facilitating self-collection in an appropriate clinical setting, such as "drive-thru" testing sites.

The self-collected nasal swab was recently determined to be equivalent to a nasopharyngeal swab in detecting coronavirus through a study performed by the United Health Group. As a result of these data, the FDA is recommending a self-collected nasal swab (using a round foam swab) or self-collected mid-turbinate swabs (using a flocked tapered swab) for use when a nasopharyngeal (NP) swab is not performed. Based on available data, the FDA recommends that, for symptomatic patients, nasal swabs could be used that access just the front of the nose rather than the depth of the nasal cavity. This would provide COVID-19 testing that is more comfortable for patients, allows self-collection of samples at collection sites, and that can be performed with a simpler and more readily available swab.

The use of a nasal swab versus a nasopharyngeal swab includes the following benefits:

- Increases the total volume of available sample collection materials, since the recommendations are broadened to include flocked and foam swabs, which are available in large quantities
- Collection of nasal swab samples is less technically complex, so can reduce the risk of the spread of infection to healthcare providers, by (1) reducing the duration of the procedure, and (2) allowing the patient to perform self-collection under supervision
- Helps lessen the impact of PPE utilization, given that the patient can perform self-collection under supervision (versus the health care provider performing the collection)

In practice, supervised nasal swab self-collection will occur at a drive-thru testing site or a healthcare clinic. Home self-collection is **NOT** recommended.

### **Background**

The FDA identifies preferred preferences for diagnostic sample collections for swab-based SARS-CoV-2. The nasopharyngeal sample is the FDA-preferred sample. In the event that this specimen is not available, the FDA identifies the following alternatives as acceptable:

- oropharyngeal sample collected by a healthcare professional (HCP);
- mid-turbinate sample by onsite self-collection or HCP (using a flocked tapered swab); or
- anterior nares sample by onsite self-collection or HCP (using a round foam swab).
- For patients with productive cough, a sputum sample is an acceptable lower respiratory sample.

### Learn More

HHS continues to support efforts to expand testing while basing our recommendations on scientific data. For updates and information on serological testing Healthcare professionals, laboratories, and diagnostic test developers can review the FDA's Frequently Asked Questions on Diagnostic Testing for SARS-CoV-2: <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/faqs-diagnostic-testing-sars-cov-2>

The U.S. Department of Health and Human Services has created a resource for stakeholders, COVID-19 testing Diagnostics, to serve as a reference that can be used to facilitate purchasing of Diagnostic materials that have received an Emergency Use Authorization from the FDA.

Coronavirus COVID-19 Diagnostic Tests Hotline For test developers and labs who have questions about the EUA process or spot shortages of testing supplies. Contact our toll-free line 24 hours a day: 1-888-INFO-FDA, choose option \*.

## AMA Code of Medical Ethics: Guidance in a Pandemic

The American Medical Association (AMA) Code of Medical Ethics offers foundational guidance for health care professionals and institutions responding to the COVID-19 pandemic in [Opinion 8.3](#), "Physicians' Responsibilities in Disaster Response and Preparedness," and [Opinion 11.1.3](#), "Allocating Limited Health Care Resources." Click [here](#) to see this resource.

## MMA Issues Op-Ed in Partnership with AMA

### Best Defense Against COVID-19? Science

*American Medical Association and Montana Medical Association Joint Statement*

**Helena, MT, March 28, 2020** – The United States gained a grim distinction in the world this week when it officially [overtook Italy and China](#) as the country with the most confirmed cases of COVID-19. Time is not on our side in the fight against this sweeping pandemic. As physicians, nurses, and the entire health care community work courageously to turn the tide against COVID-19, our singular goal is to save as many lives as possible.

In suggesting that people could begin returning to their normal routines [around Easter](#), President Trump has set up a false choice by pitting the health and safety of the American people against the economy. The choice we face in this crucial moment is not between public health and the economy. The choice is between listening to science and saving lives or ignoring science and losing lives. The choice is between working together across the country to defeat this virus or letting it kill our grandparents, parents, and neighbors.

If we do not act in a sustained way to stay home collectively — following the counsel of trained physicians, nurses, and public health officials — we will overwhelm our already taxed health system. Choosing drastic measures to [flatten the curve](#) of this virus is a stark choice.

This isn't to suggest that economic considerations aren't important in a health emergency or that people aren't already experiencing serious financial hardships because of this pandemic. But a national directive to send people back to work early would not only create confusion with existing policies adopted by the states, but would likely apply disproportionately across race and class lines, sending some of our most vulnerable populations back to work and imperiling their lives.

It would expose more people to the dangers of COVID-19, require the need for more hospital beds and ventilators, and ramp up pressure for more protective equipment for health providers. Such a scenario is frightening to consider and would inevitably result in more death and suffering.

Simply put, the best long-term strategy for economic recovery is to stop the spread of the virus. A healthy economy relies on a healthy workforce.

We've reached a critical stage in the battle against COVID-19 and health experts have laid out a number of scenarios that can alter the trajectory of the outbreak depending on how society commits to physical distancing. Public health experts indicate that strict physical distancing is our best chance to slow the pandemic.

Relaxing physical distancing too soon represents the most serious and direct threat to public health and would likely result in far greater the number of deaths.

Fifteen days of physical distancing is not enough to defeat COVID-19. We cannot rush this effort. There is no skipping the hard work it will take to fully recover from this immense health emergency.

Public health experts, physicians, and scientists know that physical distancing works. More than 100 million people in the U.S. are already adhering to their local and state guidelines to shelter in place or stay at home. They're still maintaining meaningful connections with friends, family, and loved ones through video chats, social media, or simply by phone. Physical distancing doesn't have to mean the end of socializing; we just need to do it at a safe distance.

While some states have been leaders in this effort, many have not yet put such physical distancing restrictions in place, which threatens to prolong the battle against COVID-19. We need everyone in this effort, committed to ending this pandemic as soon as possible.

Our only chance to win this fight is to slow the spread of COVID-19 and give health professionals the necessary time and resources to care for those who need it. We must unite as a country around this effort. We have no other choice.

Marc Mentel, D.O.

Montana Medical Association President

## MMA COVID-19 Website

Visit the [mmacovid.com](https://mmacovid.com) website to read more .