

Order of the Secretary of the Pennsylvania Department of Health Directing Testing at Skilled Nursing Facilities

COVID-19 is a contagious disease that is rapidly spreading from person to person. People infected are capable of exposing others to COVID-19 even if their symptoms are mild, such as a cough, or even if they are asymptomatic. Additionally, exposure is possible by touching a surface or object that has the virus on it and then touching one's mouth, nose, or eyes. Symptoms of COVID-19 may include fever, cough, shortness of breath, chills, repeated shaking with chills, muscle pain, headache, sore throat, and new loss of taste or smell. Early symptoms may also include chills, body aches, sore throat, headache, diarrhea, nausea/vomiting, and runny nose. Older adults and people who have serious chronic medical conditions are at a higher risk for serious illness.

The first cases of COVID-19 were reported in the United States in January, 2020. Since then, multiple areas of the United States have experienced "community spread" of COVID-19, meaning that the illness is being transmitted through unknown sources, and not from known areas of infection. On March 6, 2020, after the first cases of COVID-19 in the Commonwealth of Pennsylvania were confirmed, the Governor issued a Proclamation of Disaster Emergency. Since that date, the number of positive cases has continued to rise, and community spread has continued in the Commonwealth as well. Case counts rapidly increased throughout the Commonwealth in March and April, 2020. As of June 8, 2020, every county in the Commonwealth has been affected, the number of positive cases is 75,943 and 5,953 persons have died from COVID-19.

In order to slow the spread of COVID-19 and protect the people of the Commonwealth, the Governor and I issued orders on March 19, 2020, closing all Commonwealth businesses that are not life sustaining. *See Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of all Businesses that are Not Life Sustaining of March 19, 2020, as amended; Order of the Secretary of the Pennsylvania of Health Regarding the Closure of all Businesses That Are Not Life Sustaining of March 19, 2020, as amended (Orders of March 19, 2020, as amended).* On April 1, 2020, the Governor and I issued Orders directing all individuals in Pennsylvania to stay at home. *See Order of the Governor of the Commonwealth of Pennsylvania for Individuals to Stay at Home of April 1, 2020, as amended; Order of the Secretary of the Pennsylvania Department of Health to Stay at Home of April 1, 2020, as amended.* These mitigation efforts have slowed the spread of the disease, and have protected our health care system from being overwhelmed. Accordingly, in our Orders of May 7, 2020, the Governor and I suspended restrictions for certain areas instituted in the Orders of March 19, 2020, as amended, and April 1, 2020, as amended. *See Order of the Governor of the Commonwealth of Pennsylvania for Limited Opening of Business, Lifting of Stay at Home Requirements, and Continued Aggressive Mitigation Efforts, as amended; Order of the Secretary of the Pennsylvania Department of Health for a Limited Opening of Businesses, Lifting of Stay Home Requirements and Continued Aggressive Mitigation Efforts, as amended.*

While these mitigation strategies, practiced by all persons in the Commonwealth, have been successful, and the overall number of new cases continues to decline, allowing the phased and considered reopening of the Commonwealth, *see Order of the Governor For the Continued Reopening of the Commonwealth, Order Of the Secretary for the Continued Reopening of the Commonwealth, as amended*, person-to-person spread among residents and staff of skilled nursing facilities (SNF) continues. Further, residents of congregate care homes, because of age, or comorbidities, or both, are extremely susceptible to COVID-19. Contracting the virus can result in these persons developing pneumonia or other severe acute respiratory and cardiac issues, among other concerns. Despite the best efforts of public health officials and others to mitigate and control the spread of COVID-19 and the concomitant danger to residents and staff within these facilities, and in the community, the virus is still spreading. Early identification of infected facility residents and staff, while difficult due to asymptomatic spread of the virus, can help to limit the spread of the virus among these vulnerable residents, the staff that is caring for them, and the communities in which they live.

COVID-19 is a threat to the public's health, for which the Secretary of Health may order general control measures, including, but not limited to, closure, isolation, and quarantine. This authority is granted to the Secretary of Health pursuant to Pennsylvania law. *See* Section 5 of the Disease Prevention and Control Law, 35 P.S. § 521.5; sections 2102(a) and 2106 of the Administrative Code of 1929, 71 P.S. §§ 532(a), and 536; and the Department of Health's (Department's) regulations at 28 Pa. Code §§ 27.60-27.68 (relating to disease control measures; isolation; quarantine; movement of persons subject to isolation or quarantine; and release from isolation and quarantine). Particularly, the Department has the authority to take any disease control measure appropriate to protect the public from the spread of infectious disease. *See* 35 P.S. § 521.5; 71 P.S. § 532(a), and 1402(a); 28 Pa. Code § 27.60.

Given the continued spread of COVID-19 in the Commonwealth and its danger to Pennsylvanians, and given the vulnerability of residents in skilled nursing facilities, the likelihood of asymptomatic spread in such facilities, and the spread from those facilities back into the community, I have determined that the testing of residents and staff in such facilities is an essential disease control measure to protect the health and safety of all persons in the Commonwealth of Pennsylvania.

Accordingly, on this date, June 8, 2020 to protect residents and staff of skilled nursing facilities and the general public from the spread of COVID-19, I hereby order:

Section 1: Universal Testing for COVID-19 at Skilled Nursing Facilities

- A. Each SNF in the Commonwealth shall test residents and staff for COVID-19 in accordance with the Department's Facility Testing Requirements that the Department will publish on or before June 8, 2020, and any future modifications to those requirements. Those Facility Testing Requirements are incorporated herein and made a part of this Order as of the date of their issuance, along with any modification thereto.
- B. SNFs required to test under this Order shall have tested all residents and staff at least once by July 24, 2020.

Section 2: Testing Collection and Diagnostic Testing

Specimens collected in accordance with this Order must be submitted to a laboratory approved by the State Public Health Laboratory to perform diagnostic COVID-19 testing, or to the State Public Health Laboratory with the prior approval of the Department.

Section 3: SNF Reporting

- A. Unless stated otherwise in the Facility Testing Requirements, each SNF shall report COVID-19 test results by individual, along with any metric required in the Facility Testing Requirements in a manner and through a system designated by the Department.
- B. Each SNF shall notify the Department of completion of its initial test of all residents and staff within 48 hours of the SNF's receipt of the test results. An SNF that conducted universal testing prior to this Order shall report the results to the Department in accordance with subsection (A) within 72 hours of the Department's issuance of this Order.
- C. Each SNF shall immediately notify the Department of any assistance needed to comply with the Facility Testing Requirements in a manner and through a system designated by the Department.

Section 4: Right of Individual to Refuse Testing

Nothing in this Order shall be read to prevent a resident or a member of the staff of an SNF from refusing testing. Any resident or member of the staff who does not consent to testing shall be treated in accordance with the Facility Testing Requirements.

Section 5: Effective Date.

This Order shall take effect at 12:01 a.m. on June 9, 2020.



Rachel Levine, MD
Secretary of Health