

Order of the Secretary of the Pennsylvania Department of Health Directing Long-Term Care Facilities to Implement Measures for Use and Distribution of Personal Protective Equipment

COVID-19 is a contagious disease that is rapidly spreading from person to person. People infected are capable of exposing others to COVID-19 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 or chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, or diarrhea. 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 continued to rise, and community spread continued in the Commonwealth as well. Case counts rapidly increased throughout the Commonwealth in March and April 2020.

Successful mitigation efforts driven by Orders that the Governor and I issued throughout March, April and May led to a decrease in the number of new cases and allowed for the measured reopening of the Commonwealth in May and in June. Person-to-person spread continues, however, and with the reopening, the number of new cases that are due to community spread has increased. Mindful of the need to slow this increase in order to avoid the types of stringent Commonwealth-wide mitigation strategies that were discontinued a short time ago, I issued an Order on July 1, 2020, requiring face coverings be worn by all persons age two and over in the Commonwealth. *See Order of the Secretary of the Pennsylvania Department of Health Requiring Universal Face Coverings of July 1, 2020.* Further, on July 15, 2020, the Governor and I issued Orders directing additional targeted mitigation measures addressing, in part, events, gatherings, nightclubs, gyms, teleworking, and the retail food services industry. *See Order of the Governor of the Commonwealth of Pennsylvania Directing Targeted Mitigation Measures of July 15, 2020 and Order of the Secretary of the Pennsylvania Department of Health Directing Mitigation Measures of July 15, 2020.*

As COVID-19 continues to spread in the Commonwealth and present a danger to Pennsylvanians, long-term care facilities provide an important role in the Commonwealth's response. Residents of long-term care facilities are highly susceptible to COVID-19

because of age, co-morbidities, and/or living in a congregate setting. As part of the response, on June 8, 2020, I issued an Order for universal testing for COVID-19 at skilled nursing facilities. *See Order of the Secretary of the Pennsylvania Department of Health Directing Testing at Skilled Nursing Facilities on June 8, 2020.* Additionally, on June 26, 2020, I issued a similar Order for Personal Care Homes, Assisted Living Residences, and Private Intermediate Care Facilities licensed by the Department of Human Services. *See Order of the Secretary of the Pennsylvania Department of Health Directing Testing at Long-Term Care Facilities on June 26, 2020.* This testing will allow for early identification of infected facility residents and staff and will help to limit the spread of COVID-19 among residents, staff working to take care of them, and the communities in which they live. In order to effectively implement this needed testing and to mitigate the future spread of COVID-19 among residents, staff, and communities, consistent use of personal protective equipment (PPE) by staff is necessary.

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 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 of Health 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 1403(a); 28 Pa. Code § 27.60. Because it is essential in managing the spread of COVID-19 and to protect the health and safety of all persons in the Commonwealth, I have determined that each long-term care facility must develop, implement, and adhere to a plan to distribute and use PPE.

Accordingly, on this date, August 17, 2020, to protect the public from the spread of COVID-19, I hereby order:

Section 1: Definitions

“Facility” means Skilled Nursing Facilities, Personal Care Homes, Assisted Living Residence, and any private Intermediate Care Facilities.

“Staff” means any individual employed by the facility or who works in the facility three or more days per week (regardless of their role), including contracted staff (such as therapists or PRN staff) who work in the facility three or more days per week. Personnel who attend to healthcare needs of the residents but are not employed by the facility and do not enter the facility three or more days per week are not considered staff.

Section 2: Measures for Distribution and Use of PPE

- A. Each facility shall develop, implement, and adhere to policies and procedures that provide for the procurement and distribution of PPE to all staff by 12:01 a.m. on August 27, 2020.
- B. The policies and procedures must, at a minimum, include distribution of respirators to staff providing direct patient care to COVID-19 positive and suspected cases and staff assigned to provide direct patient care in COVID-19 units. The respirators distributed by each facility must be National Institute for Occupational Safety and Health-approved particulate filtering facepiece respirators, or if those are not available, respirators approved by the Food and Drug Administration, including through an Emergency Use Authorization, as named in Appendix A. The respirator distribution must occur prior to the beginning of the staff member's shift, and the respirator must be replaced as soon as practical if the facility is notified by a staff member that their mask has become soiled, damaged, or otherwise ineffective.

Section 2: Effective Date

Compliance with this Order shall begin at 12:01 a.m. on August 18, 2020.

A handwritten signature in black ink, appearing to read 'RL 22 MD', is written above a horizontal line.

Rachel Levine, MD
Secretary of Health