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Commissioner

EXECUTIVE DIRECTIVE NO. 21-012¹

**Directive for the Resumption of Services in all Long-Term Care Facilities
licensed pursuant to N.J.A.C. 8:43, N.J.A.C. 8:36, N.J.A.C. 8:39, and N.J.A.C. 8:37**

WHEREAS, Coronavirus disease 2019 (“COVID-19”) is a contagious, and at times fatal, respiratory disease caused by the SARS-CoV-2 virus; and

WHEREAS, symptoms of the COVID-19 illness include fever, cough and shortness of breath, which may appear in as few as two or as long as 14 days after exposure, and can spread from person to person via respiratory droplets and particles produced when an infected person coughs or sneezes; and

WHEREAS, on March 9, 2020, Governor Philip D. Murphy issued Executive Order 103, declaring the existence of a Public Health Emergency, pursuant to the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., and a State of Emergency, pursuant to the Disaster Control Act, N.J.S.A. App A:9-33 et seq., in the State of New Jersey for COVID-19; and

WHEREAS, Executive Directive 20-013 issued May 20, 2020, instituted a testing requirement for COVID-19 in New Jersey licensed Long-Term Care Facilities, Assisted Living Residences, Comprehensive Personal Care Homes, Residential Health Care Facilities, and Dementia Care Homes (collectively “LTCFs” or “facilities”); and

WHEREAS, LTCFs have been heavily impacted by COVID-19. The New Jersey Department of Health (NJDOH) has taken an aggressive approach to detection of and response to the virus in these vulnerable populations; and

WHEREAS, the Centers for Medicare and Medicaid Services (CMS) and the Centers for Disease Control and Prevention (CDC) updated guidance for persons fully vaccinated and unvaccinated, including healthcare providers and residents of healthcare facilities; and

WHEREAS, COVID-19 vaccines have received Emergency Use Authorization or approval from the Food and Drug Administration; and

¹ This revised Executive Directive supersedes Executive Directive 20-025 revised on August 31, 2020, Executive Directive 20-026 issued on January 6, 2021, Executive Directive 21-001 revised on May 12, 2021, and Executive Directive 20-017 issued on June 19, 2020.

WHEREAS, on August 6, 2021 Governor Murphy issued Executive Order No. 252 mandating vaccination of all workers in LTCFs and frequent testing for any unvaccinated staff; and

WHEREAS, since COVID-19 vaccines have been administered to LTCF residents and staff, and these vaccines have been shown to help prevent symptomatic infection, CMS, in conjunction with the CDC, updated visitation guidance accordingly; and

WHEREAS, on June 4, 2021 Governor Murphy signed P.L 2021, c. 103 into law and issued Executive Order 244 which among other things, terminated the Public Health Emergency, declared in Executive Order 103, but continued the State of Emergency; and

WHEREAS, P.L. 2021, c. 103 explicitly authorizes the Commissioner of Health to issue orders, directives, and waivers pursuant to the Emergency Health Powers Act related to (1) vaccination distribution, administration, and management; (2) COVID-19 testing; (3) health resources and personnel allocation; (4) data collection, retention, sharing, and access; (5) coordination of local health departments; and (6) implementation of any applicable recommendations of the CDC to prevent or limit the transmission of COVID-19, including in specific settings; and

WHEREAS, CMS and CDC continue to emphasize the importance of maintaining infection prevention practices in LTCFs, given the continued risk of COVID-19 transmission; and

WHEREAS, on September 10, 2021 CMS issued revised QSO-20-38-NH regarding LTC Facility Testing Requirements; and

WHEREAS, on November 4, 2021 CMS issued the Omnibus COVID–19 Health Care Staff Vaccination Interim Final Rule (CMS-3415-IFC) establishing COVID–19 vaccination requirements for staff at Medicare- and Medicaid-certified providers and suppliers; and

WHEREAS, on November 12, 2021 CMS issued revised Visitation Guidance for Nursing Home Visitation – COVID-19 (QSO-20-39-NH), which allows visitation for all residents at all times;

NOW, THEREFORE, I, JUDITH PERSICHILLI, Commissioner of the Department of Health, pursuant to the powers afforded to me under the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., the Civilian Defense and Disaster Control Act, N.J.S.A. App.A:9-33 et seq., P.L. 2021, c. 103, and Executive Order No. 252 (2021) hereby ORDER and DIRECT the following:

This Directive supersedes and replaces Executive Directive 20-025, Executive Directive 20-026, Executive Directive 21-001, and Executive Directive 20-017 and applies to the following residential healthcare facilities: Nursing Homes licensed pursuant to N.J.A.C. 8:39, Assisted Living Facilities and Comprehensive Personal Care Homes licensed pursuant to N.J.A.C. 8:36, Dementia Care Homes licensed pursuant to N.J.A.C. 8:37, and Residential Health Care Facilities licensed pursuant to N.J.A.C. 8:43.

I. Visitation

1. Visitation must be allowed for all residents of nursing homes at all times per CMS QSO-20-39-NH, revised 11/12/2021 at [QSO-20-39-NH REVISED \(cms.gov\)](#) (CMS Guidance), which facilities are to follow along with the supplementation of this Executive Directive.

2. Assisted Living Facilities, Comprehensive Personal Care Homes, Dementia Care Homes and Residential Health Care Facilities are to follow the CMS guidance referenced in paragraph 1. above with respect to visitation for all residents, except that the 24/7 visitation requirement is not required for these types of facilities and instead these facilities are required to return to pre-pandemic visitation hours.

II. Screening Requirement

1. The facility must log and screen everyone (except for EMS personnel) entering the facility per the requirements in this directive, regardless of their vaccination status. The facility must advise everyone entering the facility to: monitor for signs and symptoms of COVID-19 for at least 14 days after exiting the facility, and, if symptoms occur, self-isolate at home, contact their healthcare provider, and immediately notify the facility of the date they were in the facility, the individuals with whom they were in contact, and the locations within the facility they visited. Facilities should immediately screen the individuals who are a reported contact, and implement necessary actions based on findings.
2. The facility must receive written, informed consent from visitors that they are aware of the possible dangers of exposure to COVID-19 for both the resident and the visitor, and that they will follow the visitation rules set by the facility.
 - i. A copy of the consent form must be provided to visitors confirming that they are aware of the risk of exposure to COVID-19 during the visit.
3. Visitors must strictly comply with the facility policies during visitation.
4. Visitors must notify the facility upon receipt of a positive COVID-19 test result or exhibiting symptoms of COVID-19 that develop within 14 days of the visit.
5. The facility must establish a designated area for visitors to log in and be screened upon entry.

III. Screening Standards

1. The screening process for visitors is to consist of the completion of a questionnaire about symptoms and potential exposure which shall include at a minimum:
 - i. Whether, in the last 14 days, the visitor has had an identified exposure to someone with a confirmed diagnosis of COVID-19, someone under investigation for COVID-19, or someone with respiratory symptoms.
 - ii. Whether the visitor has been diagnosed with COVID-19 and has not yet met criteria for the discontinuation of isolation per guidance issued by NJDOH and CDC.
 - iii. Whether the visitor is experiencing:
 - a. Fever;

- b. Chills;
 - c. Cough;
 - d. Shortness of breath or difficulty breathing,
 - e. Sore throat;
 - f. Fatigue;
 - g. Muscle or body aches;
 - h. Headache;
 - i. New loss of taste or smell;
 - j. Congestion or runny nose;
 - k. Nausea or vomiting; or
 - l. Diarrhea.
2. Upon screening, facilities should prohibit entry into the building for those who meet one or more of the following criteria, regardless of vaccination status:
- i. Have current SARS-CoV-2 infection;
 - ii. Have symptoms of COVID-19;
 - iii. Have had close contact with someone with SARS-CoV-2 infection in the prior 14 days or have otherwise met criteria for quarantine or
 - iv. If viral testing (i.e., antigen or PCR) is used, tests positive.

IV. Definitions

“Close contact” refers to someone who has been within 6 feet of a COVID-19 positive person for a cumulative total of 15 minutes or more over a 24-hour period.

“Facility staff” includes employees, consultants, contractors, volunteers, and caregivers who provide care and services to residents on behalf of the facility, and students in the facility’s nurse aide training programs or from affiliated academic institutions.

“Higher-risk exposure” refers to exposure of an individual’s eyes, nose, or mouth to material potentially containing SARS-CoV-2, particularly if present in the room for an aerosol-generating procedure. This can occur when staff do not wear adequate personal protective equipment during care or interaction with an individual. For more information, see CDC’s “Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2.”

V. Testing

1. Facilities must conduct testing as follows:
 - i. CMS-certified facilities are to follow QSO-20-38-NH and CMS-3415-IFC,
 - ii. All other facilities are to conduct testing in accordance with this directive, CDC, CDS, and Executive Order No. 252 (2021) published here: <https://nj.gov/infobank/eo/056murphy/pdf/EO-252.pdf>, and NJDOH Executive Directive 21-011 published on October 7, 2021 here: <https://nj.gov/health/legal/covid19/VaxTestEDCoveredSettings.pdf>.
 - iii. For facilities covered by CMS rules and guidance and this directive regarding frequency of testing, facilities shall adhere to the more frequent standard (e.g. if NJ's CALI score indicates twice weekly and CDC's county level of community transmission indicates once weekly, the facility shall test twice weekly).
2. Facilities may execute a contract or enter into an agreement with a laboratory or other vendor for prioritization of test results and to ensure testing capacity for repeat facility-wide testing. Facilities may use on-site laboratories or other arrangements for testing provided testing requirements herein are met.
3. Facilities must test residents and staff as follows:

Testing Trigger	Staff	Residents
Symptomatic individual identified	Staff, vaccinated and unvaccinated, with signs or symptoms must be tested.	Residents, vaccinated and unvaccinated, with signs or symptoms must be tested.
Newly identified COVID-19 positive staff or resident in a facility that can identify close contacts	Test all staff, vaccinated and unvaccinated, who had a higher-risk exposure with a COVID-19 positive individual.	Test all residents, vaccinated and unvaccinated, who had close contact with a COVID-19 positive individual.
Newly identified COVID-19 positive staff or resident in a facility that is unable to identify close contacts	Test all staff, vaccinated and unvaccinated, facility-wide or at a group level if staff are assigned to a specific location where the new case occurred (e.g. unit, floor, or other specific area(s) of the facility).	Test all residents, vaccinated and unvaccinated, facility-wide or at a group level (e.g. unit, floor, or other specific area(s) of the facility).
Routine testing	All covered workers who have not yet submitted proof of full vaccination must be tested, at a minimum, on a once or twice weekly basis in accordance with E.O. 252 and NJDOH E.D. 21-011	Not generally recommended

4. When a “Testing Trigger,” defined in the table above, is identified, perform testing immediately (but not earlier than 2 days after the exposure, if known) and, if negative, again 5–7 days later.
 - i. Although exceptions exist, generally staff and residents who have recovered from COVID-19 and are asymptomatic do not need to be retested for COVID-19 within 90 days after symptom onset. Until more is known, testing should be encouraged again (e.g., in response to an exposure) 3 months after the date of symptom onset with the prior infection. Refer to the CDC Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2 at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html>.
5. Residents who have experienced close contact with someone with SARS-CoV-2 infection, who have not tested positive for SARS-CoV-2 in the past 90 days, regardless of vaccination status, should submit to a series of two viral tests for SARS-CoV-2 infection. In these situations, testing is recommended immediately (but not earlier than 2 days after the exposure) and, if negative, again 5–7 days after the exposure.
6. Testing is not recommended for people who have had SARS-CoV-2 infection in the last 90 days if they remain asymptomatic, irrespective of whether they have had close contact or a higher-risk exposure. Residents who have recovered from COVID-19 can continue to have detectable SARS-CoV-2 RNA in upper respiratory specimens for up to 90 days after illness onset but remain non-infectious. Retest residents who have previously tested positive in accordance with CDC and NJDOH guidance: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/faq.html#Testing,-Isolation,-and-Quarantine-for-Persons-Who-Have-Recovered-from-Previous-SARS-CoV-2-Infection>.
7. This directive sets forth minimum staff testing requirements. Facilities may elect to perform routine testing of staff beyond the minimum outlined herein.
 - i. Use of Antigen Testing.
 - a. Antigen testing is a form of viral testing and may be used as an alternative to molecular diagnostic PCR tests subject to the parameters in this section.
 - b. Antigen testing may be used to fulfill any testing requirements set forth in this directive and also may be used on asymptomatic individuals at the facility’s discretion. If antigen testing is used, please refer to CDS: https://www.nj.gov/health/cd/documents/topics/NCOV/COVID-19_Antigen_Testing_in_LTFCF.pdf and CDC: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/nursing-homes-antigen-testing.html> guidance for test interpretation and to determine when RT-PCR confirmation testing is necessary.

- c. Only antigen tests that have received an Emergency Use Authorization or approval from the United States Food and Drug Administration (FDA) may be used to fulfill the requirements of this directive.
- d. All facilities that perform COVID-19 point of care (POC) tests such as antigen tests, in their facilities must possess a federal Clinical Laboratory Improvement Amendment (CLIA) Certificate. Additional information and application instructions for a CLIA Certificate can be found at https://www.nj.gov/health/pheh/clinical-lab-imp-services/federal_clia.shtml

8. Visitor Testing

- i. Consistent with QSO-20-39-NH, facilities in counties with substantial or high level of community transmission are encouraged to offer testing to visitors. If they do not, facilities should encourage that visitors be tested on their own within 2-3 days before coming to the facility. Non-CMS certified facilities should follow this same recommendation.
- ii. Visitors are not required to be tested or vaccinated as a condition of visitation.

VI. Generic Email Submission

1. In order to facilitate communication, which has been hindered by frequently returned emails indicating improper email addresses, delaying the Departments ability to communicate directly with all LTCFs, the Department is mandating all LTCFs obtain a generic email address which must be submitted to the Department no later than December 31, 2021.
 - i. All LTCFs shall assign at least four staff members access to this facility specific generic email account.
 - ii. This email address must not be correlated to an administrator's name or anyone else by name.
 - iii. EVERY generic email account must include the facility's license number. Some examples include: Lakelenape134567@comcast.net or Mapleshade765431@gmail.com. This generic email address should not be changed.
2. Send all generic email addresses to the Office of LTC Resiliency at OLTCR@njlincs.net.

This Directive shall take effect immediately. The provisions of this Directive shall remain in force and effect in accordance with P.L. 2021, c. 103, unless otherwise modified, superseded, supplemented, and/or rescinded.

Dated: November 24, 2021

Judith M. Persichilli, RN, BSN, MA
Commissioner

Resources

CDC Infection Control Guidance for Healthcare Professionals about Coronavirus (COVID-19)

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control.html>

CMS Policy and Memos to States and Regions (QSOs)

<https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Policy-and-Memos-to-States-and-Regions>

NJDOH Revised Executive Order 20-013 (Testing in Post-Acute Settings)

https://www.nj.gov/health/legal/covid19/05-20-2020_ExecutiveDirectiveNo20-013_LTC_planCOVID19testing_revised.pdf

NJDOH COVID-19, Communicable Disease Manual Chapter

https://www.nj.gov/health/cd/documents/topics/NCOV/NCOV_chapter.pdf

NJDOH COVID-19: Information for Healthcare Professionals

https://www.nj.gov/health/cd/topics/covid2019_healthcare.shtml