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ORDER OF THE COMMISSIONER OF PUBLIC HEALTH

On March 10, 2020, Governor Charles D. Baker declared a State of Emergency in the Commonwealth to respond to the spread of COVID-19. On March 11, 2020, in view of the grave threat that the spread of COVID-19 presents to the public health, the Public Health Council authorized and directed me to act pursuant to G.L. c. 17, § 2A and to take all appropriate actions, incur such liabilities, and establish such rules, requirements, and procedures necessary to prepare for, respond to, and mitigate the spread of COVID-19 in order to protect the health and welfare of the people of the Commonwealth.

Accordingly, having received that authorization from the Council, and with the approval of the Governor, I issue the following Order:

In order to provide care to all patients and residents in the Commonwealth, and to facilitate best practices for addressing the COVID-19 public health emergency, this order applies to all long-term care facilities that have been designated by the Department of Public Health to care for individuals with COVID-19.

The MassHealth regulations regarding transfers and discharge of long-term care facility residents, 130 CMR 456.701 through 456.704, and the related fair hearing rules at 130 CMR 610.015 and 610.028 through 610.032, are waived, for the limited purpose of safely transferring and discharging all residents living in a long-term care facility that is intended to be used as a designated COVID-19 facility. The procedures to be used to transfer and discharge these residents will be set out in MassHealth guidance issued pursuant to this Order. Additionally, the related provisions for requesting a fair hearing related to transfers and discharges, within G.L. c. 111, § 70E are waived for long-term care facilities that have been designated to care for individuals with COVID-19.

Facilities subject to this order must continue to comply with all applicable statutes, regulations, and guidance not inconsistent with this Order.

This Order shall remain in effect from March 28, 2020, until the State of Emergency is terminated by the Governor, or until rescinded by me, whichever shall happen first.

IT IS SO ORDERED.

Monica Bharel, MD, MPH
Commissioner, Massachusetts Department of Public Health

March 28, 2020