Executive Order 2020-135: Creation of Michigan Nursing Homes COVID-19 Preparedness Task Force

EXECUTIVE ORDER

No. 2020-135

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Department of Health and Human Services

The novel coronavirus (COVID-19) is a respiratory disease that can result in serious illness or death. It is caused by a new strain of coronavirus not previously identified in humans and easily spread from person to person. Older adults and those with chronic health conditions are at particular risk, and there is an increased risk of rapid spread of COVID-19 among persons in close proximity to one another. There is currently no approved vaccine or antiviral treatment for this disease.

Since the first confirmed case in March, COVID-19 has spread across Michigan, bringing deaths in the thousands, confirmed cases in the tens of thousands, and deep disruption to this state's economy, homes, and educational, civic, social, and religious institutions. The COVID-19 pandemic poses a particularly dire threat to the health and safety of both residents and employees of nursing homes. Due to nursing home residents' vulnerability to the disease, and the nature of the care provided in nursing homes, the risk of harm posed by a single positive case of COVID-19 to the entire facility is inordinately high.

To respond to these threats, beginning in April, I issued orders requiring ongoing attention to infection prevention in nursing homes, which is critical to slowing and stopping the spread of the virus. Moreover, Michigan offered and prioritized nursing home testing beginning in April for every resident, and as a result of that commitment to protecting our most vulnerable residents, the state has facilitated testing for over 35,600 residents and staff in nursing homes.

Protecting the health, safety and wellbeing of our seniors and most vulnerable residents remains a top priority. But the challenges involved in preventing the spread of COVID-19 in nursing homes are formidable. Federal leadership on how best navigate the COVID-19 pandemic in nursing homes has been in short supply. And although Michigan has weathered an initial wave of COVID-19, available data and research suggests the virus is surging in other parts of the country. A second wave of COVID-19 in Michigan therefore remains a deadly threat, especially to nursing home residents. I am therefore creating a task force comprised of government officials, legislators, epidemiologists, professional healthcare associations, physicians, and direct care workers, that will be charged with, among other things, preparing for any future wave of COVID-19 cases by developing an action plan based on timely and high-quality data.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

Section 8 of article 5 of the Michigan Constitution of 1963 places each principal department of state government under the supervision of the governor unless otherwise provided.

Section 8 of article 5 of the Michigan Constitution of 1963 further obligates the governor to take care that the laws be faithfully executed.

Acting under the Michigan Constitution of 1963 and Michigan law, I order the following:

I. The creation of the Michigan Nursing Homes COVID-19 Preparedness Task Force

1. The Michigan Nursing Homes COVID-19 Preparedness Task Force ("Task Force") is created as an advisory body within the Michigan Department of Health and Human Services (DHHS).
2. The Task Force must consist of:
    a. The director of the DHHS, or the director's designee from within DHHS.
    b. The director of the Michigan Department of Licensing and Regulatory Affairs (LARA), or the director's designee from within LARA.
    c. The Michigan State Long Term Care Ombudsman, or her designee from within the Michigan Long Term Care Ombudsman Program.
    d. Two members of the Michigan House of Representatives appointed by the governor, including one from each of the two political parties with the largest representation in the Michigan House of Representatives.
    e. Two members of the Michigan Senate appointed by the governor, including one from each of the two political parties with the largest representation in the Michigan Senate.
    f. Thirteen other members appointed by the governor, including individuals with a personal or professional interest in the health, safety, and welfare of nursing home residents and workers.

3. The governor will select two members of the Task Force to serve as co-chairs.
4. A vacancy on the Task Force or a vacant co-chair position must be filled in the same manner as the original appointment

II. Charge to the Task Force

1. To adequately inform the state's response to a potential second wave of COVID-19, the Task Force is charged with the following responsibilities
    a. Coordinating across state government and with industry stakeholders to ensure a broad range of input from relevant entities.
    b. Analyzing relevant data on the threat of COVID-19 in nursing homes and making recommendations to the governor on improving data quality, as necessary.
    c. Making data analysis publicly available in a readable format to improve public understanding of the threat of COVID-19 in nursing homes.
    d. Making periodic reports to the governor on its findings and recommendations, including on best practices to minimize the spread of COVID-19 in nursing homes, and to provide appropriate and timely technical assistance to nursing homes.
    e. By August 31, 2020, producing a recommendation to the governor for an action plan on how to prepare nursing homes for any future wave of COVID-19 cases.
    f. Providing other information or advice or taking other actions as requested by the governor.
2. The Task Force must report regularly to the governor on its activities and make recommendations on an ongoing basis.
3. The Task Force will dissolve no later than two years after issuance of this order unless the governor orders otherwise

III. Operations of the Task Force

1. DHHS must assist the Task Force in the performance of its duties and provide personnel to staff the Task Force. The budgeting, procurement, and related management functions of the Task Force will be performed under the direction and supervision of DHHS.
2. The Task Force must adopt procedures, consistent with this order and applicable law, governing its organization and operations.
3. The Task Force must comply with the Freedom of Information Act, 1976 PA 442, as amended, MCL 15.231 et seq.
4. The Task Force may select from among its members a secretary. Task Force staff must assist the secretary with recordkeeping responsibilities.
5. The Task Force must meet at the call of its co-chairpersons and as otherwise provided in the procedures it adopts.

6. A majority of the members of the Task Force serving constitutes a quorum for the transaction of the business of the Task Force. The Task Force must act by a majority vote of its members.
7. The Task Force may establish advisory workgroups composed of individuals or entities participating in Task Force activities or other members of the public or of the executive branch of state government, as deemed necessary by the Task Force to assist it in performing its duties and responsibilities. The Task Force may adopt, reject, or modify any recommendations proposed by an advisory workgroup.
8. The Task Force may, as appropriate, make inquiries, studies, and investigations, hold hearings, and receive comments from the public. The Task Force also may consult with outside experts in order to perform its duties, including experts in the private sector, organized labor, faith community, government agencies, and at institutions of higher education.
9. The Task Force may hire or retain contractors, sub-contractors, advisors, consultants, and agents, and may make and enter into contracts necessary or incidental to the exercise of the powers of the Task Force and the performance of its duties as the co-chairs deem advisable and necessary, consistent with this order and applicable law, rules, and procedures, subject to available funding.
10. The Task Force may accept donations of labor, services, or other things of value from any public or private agency or person. Any donations must be received and used in accordance with law.
11. Members of the Task Force must not receive additional compensation for participation on the Task Force. Members of the Task Force may receive reimbursement for necessary travel and expenses consistent with applicable law, rules, and procedures, subject to available funding.
12. Members of the Task Force must refer all legal, legislative, and media contacts to DHHS

IV. General Provisions

1. All departments, agencies, committees, commissioners, and officers of this state must give to the Task Force, or to any member or representative of the Task Force, any necessary assistance required by the Task Force, or any member or representative of the Task Force, in the performance of the duties of the Task Force so far as is compatible with their duties and consistent with this order and applicable law. Free access also must be given to any books, records, or documents in their custody relating to matters within the scope of inquiry, study, or review of the Task Force, consistent with applicable law.
2. This order is not intended to abate a proceeding commenced by, against, or before an officer or entity affected by this order. A proceeding may be maintained by, against, or before the successor of any officer or entity affected by this order.

3. Nothing in this order should be construed to change the organization of the executive branch of state government or the assignment of functions among its units, in a manner requiring the force of law.
4. If any portion of this order is found to be unenforceable, the rest of the order remains in effect.
5. This order is effective upon signing.

Given under my hand and the Great Seal of the State of Michigan.

GRETCHEN WHITMER
GOVERNOR

Date: June 26, 2020

Time: 12:43 pm

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