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ORDER OF THE COMMISSIONER OF PUBLIC HEALTH REGARDING DETERMINATION OF NEED APPROVALS RELATED TO COVID-19

On March 10, 2020, Governor Charles D. Baker issued a declaration that a public health emergency exists in the Commonwealth due to the outbreak of the 2019 novel Coronavirus ("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.

As of March 24, 2020, 1159 cases of COVID-19 were reported by the Department of Public Health. The escalating COVID-19 public health emergency has begun and will continue to produce an extraordinary demand on the Commonwealth's healthcare system. Addressing this exceptional demand will require a degree of flexibility and responsiveness to address the need for additional healthcare equipment and facilities necessary to address COVID-19 in the Commonwealth.

Accordingly, in view of the need for expanded capacity within the Commonwealth's healthcare system, pursuant to the authority granted by G.L. c. 17, §2A and with the approval of the Governor and the Public Health Council, and in order to assure the maintenance of public health during the continuing public health emergency, I hereby issue the following Order:

During the state of emergency due to the outbreak of COVID-19, a Notice of Determination of Need shall not be required for any person seeking approval for a Substantial Capital Expenditure, Substantial Change in Service, or Transfer of Site necessary to address COVID-19, provided the person seeking approval complies with guidance from the Department of Public Health for the purpose of implementing this order.

All applicable statutes, regulations, and guidance not inconsistent with this Order remain in effect.

This Order shall take effect immediately and remain in effect until the State of Emergency is terminated by the Governor, or until rescinded by me, whichever shall happen first.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 24, 2020