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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

JUDITH M. PERSICHILLI, RN, BSN, MA
Commissioner

EXECUTIVE DIRECTIVE NO. 20-008

Authorization for Health Care Facilities to Add Ventilator Beds

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

WHEREAS, COVID-19 is responsible for the 2019 novel coronavirus outbreak, which was first identified in Wuhan, the People's Republic of China in December 2019 and quickly spread within the Hubei Province and subsequently to multiple other countries; and

WHEREAS, on January 30, 2020, the International Health Regulations Emergency Committee of the World Health Organization declared the outbreak a "public health emergency of international concern," which means "an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response," and thereafter raised its global risk assessment of COVID-19 from "high" to "very high"; and

WHEREAS, on January 31, 2020, the Secretary of the United States Department of Health and Human Services declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, the CDC expects that additional cases of COVID-19 will be identified in the coming days, including more cases in the United States, and that person-to-person spread is likely to continue to occur; and

WHEREAS, it is critical to prepare for an increasing number of individuals suspected of having or diagnosed with COVID-19 in New Jersey; 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, in the State of New Jersey for COVID-19; and

WHEREAS, on April 7, 2020, Governor Philip D. Murphy issued Executive Order 119 extending the Public Health Emergency declared on March 9, 2020; and

WHEREAS, under the declared public health emergency, the Commissioner of the Department of Health is empowered, pursuant to N.J.S.A. 26:13-12, to take all reasonable and necessary measures to prevent the transmission of infectious disease and apply proper controls and treatment for infectious disease; and

WHEREAS, the Department of Health recognizes during this Public Health Emergency that licensed healthcare facilities must be afforded the ability and flexibility to care for and treat all of their patients, including those who may be affected by COVID-19, to ensure they receive appropriate and necessary medical care; and

WHEREAS, ventilator beds have been limited to hospitals, which are already permitted to expand the number of ventilator beds in operation via a waiver issued by the Department, and long-term care facilities; and

WHEREAS, the addition of ventilator beds in long-term care facilities requires a certificate of need pursuant to the requirements of N.J.S.A. 26:2H-8 et seq., N.J.A.C. 8:33 and N.J.A.C. 8:33H; and

WHEREAS, there may be a need to expand the use of ventilator beds both within and outside of long-term care facilities due to the pressing need for ventilator beds for those affected by COVID-19.

NOW, THEREFORE, I, JUDITH PERSICHILLI, Commissioner of the New Jersey Department of Health, pursuant to the powers afforded to me under the Emergency Health Powers Act, hereby ORDER and DIRECT the following:

1. Notwithstanding the provisions of N.J.S.A. 26:2H-8 et seq., N.J.A.C. 8:33 and N.J.A.C. 8:33H requiring a certificate of need for ventilator beds to be licensed in long-term care facilities, all long-term care facilities are authorized to temporarily add ventilator beds into service when necessary to treat those affected by COVID-19.

2. Long-term facilities adding ventilator beds are to notify Jean DeVitto, Executive Director, Certificate of Need and Licensing at jean.devitto@doh.nj.gov with the location and number of ventilator beds being placed into service.

3. Notwithstanding the limitation of ventilator beds to hospitals and long-term care facilities through the certificate of need process, any licensed healthcare facility, other than long-term care facilities, may add ventilator beds with the approval of the Department of Health. Requests for approval may be directed to Jean DeVitto, Executive Director, Certificate of Need and Licensing at jean.devitto@doh.nj.gov

4. Healthcare facilities adding ventilator beds to treat those affected by COVID-19 are expected to maintain appropriate staffing for these beds, as set forth in N.J.A.C. 8:33H-1.6(h), subject to waivers that have already been or may be issued addressing these requirements or limitations of available staff.

5. At the conclusion of the Public Health Emergency healthcare facilities, including long-term care facilities, that added temporary ventilator beds pursuant to this Executive Directive shall not admit any additional ventilator dependent residents to the temporary beds.

6. No later than forty-five (45) days after the termination of the Public Health Emergency, healthcare facilities, including long-term care facilities, shall take the temporary ventilator beds that are the subject of this Executive Directive out of service.

This Order shall take effect immediately and shall remain in effect until such time as it is determined by me that an emergency no longer exists.

Judith Persichilli

Judith Persichilli, R.N., B.S.N., M.A.
Commissioner

4/14/2020

Date