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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

JUDITH M. PERSICHILLI, RN, BSN, MA
Commissioner

EXECUTIVE DIRECTIVE NO. 20-035

NEW JERSEY VACCINE EDUCATION AND PRIORITIZATION PLAN PURSUANT TO N.J.S.A. 26:13-23

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), Coronavirus disease 2019 (COVID-19) is a contagious, and at times fatal, respiratory illness caused by the SARS-CoV-2 virus; 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, the Public Health Emergency was extended by Governor Murphy under Executive Orders 119, 138, 151, 162, 171, 180, 186, 191, and 200; and

WHEREAS, pursuant to N.J.S.A. 26:13-11, the Commissioner of the Department of Health is authorized to issue orders to restrict, control and regulate by rationing the dispensing and distribution of vaccines that are reasonable and necessary to respond to a declared public health emergency when there is a Statewide shortage of the vaccines; and

WHEREAS, under the declared public health emergency, the Commissioner of the Department of Health is required, pursuant to N.J.S.A. 26:13-23, to develop and implement a Vaccine Education and Prioritization Plan "when the Commissioner determines that: (1) an emergent condition exists and there is clear evidence that adverse and avoidable health outcomes from a preventable and acute communicable disease are expected to affect identifiable categories of high-risk individuals throughout the State; and (2) in order to protect or treat such individuals, assistance with the administration of vaccine is warranted due to a vaccine shortage"; and

WHEREAS, there is clear evidence that COVID-19, which is an acute communicable disease, causes adverse and avoidable health outcomes and affects identifiable categories of high-risk individuals throughout the State and that the administration of a COVID-19 vaccine would protect the public, include those individuals identified as high-risk; and

WHEREAS, because a COVID-19 vaccine was on the horizon and in anticipation that the vaccine would be in short supply when first released, the New Jersey Department of Health (DOH) developed an "Interim New Jersey COVID-19 Vaccination Plan" (the Plan) outlining New Jersey's aims of providing equitable access to all who live, work, and/or are educated in New Jersey; achieving community protection, assuming vaccine effectiveness, availability, and uptake; and building sustainable trust in the COVID-19 vaccine; and

WHEREAS, the Plan provides the following: (1) procedures for the assessment of available COVID-19 vaccines Statewide; (2) procedures for the distribution and administration of COVID-19 vaccines that shall apply to physicians, nurses, health care facilities, pharmacies and others that dispense vaccines, including a definition of high-risk groups for priority protection; (3) procedures for mobilizing public and private health resources to assist in COVID-19 vaccine distribution and administration; and (4) reallocating available supplies of COVID-19 vaccine to most effectively meet the needs of the State's high-risk groups; and

WHEREAS, on December 11, 2020, the U.S. Food and Drug Administration (FDA) issued an Emergency Use Authorization for a COVID-19 vaccine manufactured by Pfizer and BioNTech, which is currently the only authorized COVID-19 vaccine in the country; and

WHEREAS, because there will be a very limited supply nationwide of the only authorized COVID-19 vaccine upon its release and despite the expectation that additional vaccines will be authorized in 2020 and 2021, vaccine availability is not anticipated to meet demand in the foreseeable future; and

WHEREAS, because there is a national and Statewide COVID-19 vaccine shortage, the Department of Health's Plan is necessary and warranted; and

WHEREAS, pursuant to N.J.S.A. 26:13-23, "a person who willfully or knowingly violates the New Jersey Vaccine Education and Prioritization Plan or any procedures contained therein shall be liable for a civil penalty of $500 for each violation"; and

NOW, THEREFORE, I, JUDITH PERSICHILLI, Commissioner of the DOH, pursuant to the powers afforded to me under the Emergency Health Powers Act, hereby ORDER the following:

1. Pursuant to N.J.S.A. 26:13-23, I find that COVID-19 constitutes an emergent condition within the State and that there is clear evidence that adverse and avoidable health outcomes from this preventable and acute communicable disease affect identifiable categories of high-risk individuals throughout the State and in order to protect or treat such individuals, assistance with the administration of the COVID-19 vaccine is warranted due to a shortage of the vaccine.

2. Pursuant to N.J.S.A. 26:13-23, the Department of Health is implementing a New Jersey Vaccine Education and Prioritization Plan, which is attached hereto and entitled “Interim New Jersey COVID-19 Vaccination Plan”, as amended and supplemented.

This Directive shall take effect immediately. The provisions of this Directive shall remain in force and effect for the duration of the public health emergency originally declared in Executive Order No. 103 (2020), and as extended by Executive Order, unless otherwise modified, supplemented and/or rescinded.

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

December 15, 2020

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Date