EXECUTIVE DIRECTIVE NO. 20-018[1]

COVID-19 PROTOCOLS FOR HOSPITALS RESUMING ELECTIVE SURGERY AND INVASIVE DIAGNOSTIC PROCEDURES PURSUANT TO EXECUTIVE ORDER NO. 145

WHEREAS, Coronavirus disease 2019 ("COVID-19") is a contagious, and at times fatal, respiratory disease caused by the respiratory illness 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 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, symptoms of the COVID-19 illness include fever, cough and shortness of breath, which may appear in as few as two or as long as 14 days after exposure, and can spread from person to person via respiratory droplets produced when an infected person coughs or sneezes; 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 Order Nos. 119,138, 151, 162, 171, 180 and 186; and

WHEREAS, as confirmed cases of COVID-19 and related fatalities continued to rise, on March 23, 2020, Governor Murphy issued Executive Order No. 109 (2020) which ordered that as of 5:00 p.m. on Friday, March 27, 2020, all "elective" surgeries performed on adults, whether medical or dental, and all "elective" invasive procedures performed on adults, whether medical or dental, would be suspended in New Jersey; and

WHEREAS, this step was necessary at the time because hospitalizations, intensive care unit admissions, and ventilator usage was rapidly spiking, and these surgeries and procedures, whether undertaken in a hospital, ambulatory surgery center or providers office, necessarily drew upon the skill and time of critical health care and involved the use of equipment and supplies that

[1] This *revised* Executive Directive amends and supersedes Executive Directives No. 20-2018 dated June 24, 2020.

were needed to treat those who were critically ill; and

WHEREAS, the suspension of these surgeries and procedures preserved the capacity of our health care system to deal with the surge of COVID-19 cases, which reached its maximum impact on the health care system in the middle of April. Within the past 30 days however, the rates of confirmed COVID-19 cases in New Jersey has decreased substantially; and

WHEREAS, the provision in Executive Order 109 that the Executive Order shall not be construed in any way to limit access to the full range of family planning services and procedures, including terminations of pregnancies, whether in a hospital, ambulatory surgery center, physician office, or other location, remains in effect and waives COVID-19 testing requirements for these patients; and

WHEREAS, Governor Murphy issued Executive Order No. 145 (2020) on May 15, 2020 permitting the resumption of elective surgeries and invasive procedures in hospital and ambulatory surgery centers beginning on May 26, 2020, subject to a Directive developed by the Department of Health.

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

1. Hospitals resuming elective surgeries and invasive procedures are required to take these additional steps to protect the healthcare workforce and patients being served:

a. Comply with State and CDC guidelines to protect against further spread of COVID-19;

b. Institute screening of health care staff for symptoms of COVID-19 and have policies in place for removal of symptomatic employees from the workplace;

c. Enforce social distancing requirements in work areas and common areas;

d. Require masks for patients, except patients receiving services that would not allow for the use of a mask, and for any patient support person;

e. When possible, non-COVID care zones should be utilized in facilities that service both COVID-19 and non-COVID-19 patients;

f. Have an established plan for cleaning and disinfecting prior to using facilities to serve non-COVID-19 patients;

g. Facilities providing COVID-19 care should continue to be prepared for potential future surges. The plans for resumption of medically necessary care should include consideration of the impact on their ability to respond to future surges; and

h. Facilities should be prepared to modify resumption of clinical services in

conjunction with surge status (as surge status increases, access to non-urgent care should decrease so as to not overwhelm the healthcare system) and to repurpose and redeploy staff to urgent care roles to the extent feasible.

The facility plans for potential future surges shall be guided by the following documents and others listed in the Appendix:

i. CDC Framework for Healthcare Systems Providing Non-COVID-19 Clinical Care During the COVID-19 Pandemic: https://www.cdc.gov/coronavirus/2019-ncov/hcp/framework-non-COVID-care.html;

ii. CDC Preparedness Tools for Healthcare Professionals and Facilities Responding to COVID-19: https://www.cdc.gov/coronavirus/2019-ncov/hcp/preparedness-checklists.html; and

iii. CDC COVID-19Surge tool: https://www.cdc.gov/coronavirus/2019-ncov/hcp/COVIDSurge.html.

2. Hospitals are Eligible to Resume Elective Surgeries and Invasive Procedures, Based Upon Their Current or Potential Capacity as Outlined Below:

Hospitals can resume procedures based on the following capacity data of sustained downward trajectory for 14 days, with each day's data calculated using the average of the three most recent days:

a. Influenza Like Illness (ILI) or COVID-19 like syndromic cases;

b. COVID-19 infection rates;

c. COVID-19 hospitalizations;

d. COVID-19 emergency room admissions;

e. COVID-19 Intensive Care Unit (ICU), Critical Care and Medical Surgical bed utilization;

f. Ventilator utilization; and

g. Ventilator availability.

Hospitals can resume procedures based on the following capacity data:
a. Available and staffed ICU, Critical Care and Medical Surgical beds.

3. Standards to Guide Prioritization Decisions

Hospitals are encouraged to gradually resume full scope of services when possible and safe to do so, based on the following guidelines.
Before services resume, the physical layout and flow of care delivery areas shall change so that social distancing is maintained.

There shall be a process for determining the priority of types of services delivered that shall incorporate the following.

a. Care Prioritization and Scheduling

Facilities shall establish a prioritization policy for providing care and scheduling. All cases shall be reviewed by a site-based governance group to ensure consistency.

i. The governance group shall consider the following guidelines for prioritization:

1) Level 1 - Lifesaving/critical: less than 72 hours will result in substantial health decline or death;

2) Level 2 - Urgent/intensive: less than 30 days will result in substantial health decline or irreversible negative health trajectory;

3) Level 3 - Essential/acute: will result in substantial health decline or irreversible negative health trajectory or irreversible deterioration;

4) Level 4 – Selective: minor or major surgery with health impact but may be safely delayed for a period of time; and

5) Level 5 – Optional: surgery with minimal health impact.

ii. Model capacity based on extended turnover and spacing out of procedures and any pre-/post-procedure appointments.

iii. The governance group may consider:

Prioritizing previously cancelled and/or postponed cases;

1) Specialties' prioritization;

2) Strategy for allotting daytime "OR/procedural time";
3) Identification of essential health care professionals and medical device representatives when necessary for procedures;

4) Strategy for increasing "OR/procedural time" availability (e.g., extended hours or weekends); and

5) Issues associated with increased OR/procedural volume:

   a) Ensure primary personnel/service availability (e.g., surgery, anesthesia, nursing, housekeeping, engineering, sterile processing, etc.);

   b) Ensure adjunct personnel/contracted services availability (e.g., pathology, radiology, etc.);

   c) Ensure supply availability for planned procedures (e.g., anesthesia drugs, procedure-related medications, sutures, disposable and nondisposable surgical instruments); and

   d) New staff training.

4. PPE, and Staffing Requirements for Facilities that Resume these Procedures

a. Personal Protective Equipment (PPE) is essential to protect health care workers and patients. Therefore, the following shall be followed when resuming services:

i. Facilities shall have a plan, consistent with CDC and DOH recommendations, for patient and patient support person use of PPE;

ii. Healthcare workers must wear appropriate PPE consistent with CDC and DOH recommendations;

iii. Universal masking is required for all employees in the facility;

iv. Healthcare workers treating COVID-19 positive and presumptive positive patients must have appropriate training on, and access to, appropriate PPE;

v. COVID-19 PPE policies and procedures shall be in place for health care workers who are not in direct patient care roles and universal

masking for staff shall be in place (i.e. front desk registration, schedulers, environmental cleaning people, etc.); and

vi. Facilities should implement policies for PPE that account for:

1) Adequacy of available PPE supply, with a minimum seven (7) day supply on hand;

2) Staff training on and optimized use of PPE according to non-crisis standards of care; and

3) Policies for the conservation of PPE should be developed as well as policies for any extended use or reuse of PPE per CDC and DOH recommendations and FDA emergency use authorizations.

b. Staffing

Hospitals shall:

i. Have sufficient trained and educated staff appropriate to the planned surgical procedures, patient population and facility resources;

ii. Consider health care worker fatigue and the impact of stress to ensure that planned procedures can be performed without compromising patient safety or staff safety and well-being;

iii. Consider the potential for a second wave of COVID-19 infections in New Jersey and the strategy for responding to surge needs in the future;

iv. Use available testing to protect staff and patient safety whenever possible and should implement guidance addressing requirements and frequency for patient and staff testing; and

v. Use available qualified staff to safely perform procedures, provide care and provide needed follow up.

c. Disinfection Protocols, Supplies and Equipment Maintenance

Facilities shall implement the following disinfection and cleaning protocols:

i. Confirm that cleaning and disinfecting supplies are COVID-19 compatible;

ii. Ensure adequate supply of hand sanitizer, tissues, and non-touch trash receptacles with disposable liners in all restrooms and patient areas;

iii. Ensure all equipment is up to date on preventative maintenance and tested before use/reopening;

iv. Check all supplies for expiration dates;

v. Take needed action such as removing magazines from waiting areas; and

vi. Confirm/update all preventive infection policies and procedures.

d. Staff COVID-19 Screening

Staff shall be screened per Centers for Medicare & Medicaid Services recommendations in the document available at https://www.cms.gov/files/document/covid-flexibility-reopen-essential-non-covid-services.pdf

5. Cohorting COVID-19 and Non-COVID-19 Patients

Hospitals shall cohort COVID-19 patients and Non-COVID-19 patients.

a. Labor and Delivery Units

Hospitals with labor and delivery units shall follow DOH Labor and Delivery Guidance or Executive Directive. For scheduled procedures on a pregnant person in a hospital, the hospital shall follow the requirements in section **5** of this directive.

Hospitals are encouraged to follow the best practice "Recommendations of the New Jersey Perinatal Care During COVID-19 Work Group" as outlined by the New Jersey Health Care Quality Institute here: https://www.njhcqi.org/wp-content/uploads/2020/05/Recommendations-of-the-New-Jersey-Perinatal-Care-During-COVID-19-Work-Group-1.pdf.

b. Requirements that Patients Seeking these Procedures Must Undergo Testing, Self-Quarantine, and Other Preventive Measures

COVID-19 positive patients shall only receive Level 1, Level 2, and Level 3 procedures.

a. Scheduling must be coordinated to promote social distancing:

i. Minimize time in waiting area;

ii. Stagger appointment hours; and

iii. Post signs at entrances in appropriate language(s) for signs/symptoms of illness, fever and precautions.

b. Testing Requirements

i. Facilities must test (specimen collected and result received) each patient within a six-day maximum before a scheduled procedure, unless the patient will receive a Level 1, 2 or 3 procedure as defined herein. If a test result is not received by day six, after collection, then the patient must be retested.

ii. Any specimen collection method (e.g. swab or saliva) is acceptable. The test performed by the laboratory must be for viral detection, with a preference for nucleic acid amplification test (such as PCR). Only antigen tests that have received an **Emergency Use Authorization or approval from the United States Food and Drug Administration (FDA)** may be used to fulfill the requirements of this directive.

1) All facilities that perform COVID-19 point of care tests (such as antigen tests) in their facilities must possess a federal Clinical Laboratory Improvement Amendment (CLIA) Certificate. Additional information and application instructions for a CLIA Certificate can be found at https://www.nj.gov/health/phel/clinical-lab-imp-services/federal_clia.shtml.

iii. Retesting a patient who has tested positive in the last three months is not required if the patient remains asymptomatic and has completed appropriate isolation as defined at:https://www.cdc.gov/coronavirus/2019-ncov/hcp/disposition-in-home-patients.html and https://www.cdc.gov/coronavirus/2019-ncov/community/strategy-discontinue-isolation.html Such testing should be performed if a clinician has the reasonable suspicion that the patient may be infectious for COVID-19.

iv. Further information about testing can be found at https://www.nj.gov/health/cd/topics/covid2019_healthcare.shtml, including NJDOH COVID-19 Testing Guidance and 4-28-29 letter from the NJDOH Public Health and Environmental Laboratories

v. Facilities shall counsel patients that the following is required for the patient's procedure to be performed as scheduled:

i. Self-quarantine in their residence or other location following

testing and up until the day of surgery is necessary;

ii. Within the location of self-quarantine, social distancing is necessary and wearing a mask is necessary when social distancing is not possible;

iii. Immediately inform the facility if there is any close contact with a suspected or confirmed case of COVID-19;

iv. Immediately inform the facility if there is any close contact with a person with symptoms consistent with COVID-19; and

v. Immediately inform the facility if the patient develops any symptoms consistent with COVID-19 during the time between when the COVID-19 test was collected and when the procedure is performed.

vi. Facilities must have a process:

1) To screen patients for symptoms of COVID-19 or Influenza-Like Illness (ILI) prior to scheduled procedures; and

2) To ensure that the patient has worn a mask, has self-quarantined and social distanced since testing.

vii. Consistent with the Standards set in EO 109, time-sensitive procedures that would endanger the health of the patient if delayed may be performed on a patient without a current test result so long as:

1) The physician documents that the patient's health will be endangered if the procedure is delayed; and

2) The following infection control protocols are followed:

a) All persons should refrain from entering the vacated procedure room until sufficient time has elapsed for enough air exchanges to remove potentially infectious particles (more information on clearance rates under differing ventilation conditions is available at https://www.cdc.gov/infectioncontrol/guidelines/environmental/appendix/air.html#tableb1). The time to enter the room depends on the procedure that was performed, the type of PPE the staff entering the room is wearing, and the exchange rate of the room. For aerosol generating procedures, follow CDC guidelines for aerosol generating procedures including administrative and engineering controls, and use of

appropriate PPE. https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-faq.html#surgical; and

b) After the time for air exchanges in 1 above has elapsed, the room should undergo appropriate cleaning and surface disinfection before it is returned to routine use. If air exchange information is not currently available, the surgery center should refer to policies and procedures established for care of an active Tuberculosis patient.

c. Policies Surrounding Visitors

Hospitals, Short-Term Stay Rehabilitation Facilities and Long-Term Acute-Care Hospitals must continue to prioritize the safety and well-being of patients, patient support persons, and staff. Until further notice, visitors will be allowed, as permitted below or in waivers from DOH available at https://nj.gov/health/legal/covid19/**:**

Hospital/Facility Operations:

i. The facility will set appropriate visiting hours and visitation duration, and should consider facility design and flow when setting guidelines. Hospitals with Labor and Delivery units should follow DOH executive directives or guidance available at https://nj.gov/health/legal/covid19/.

ii. All visitors must be 18 years of age or greater, except in rare exceptions as determined by the facility.

iii. Visitors are limited to one person at a time, unless:

1) the patient is a minor, in which case the pediatric patient may have both parents or guardians, or

2) at the facility's discretion, a limited number of additional persons is determined to be appropriate.

iv. Personal Protective Equipment (PPE):

1) All visitors will be provided instruction on how to wear masks and appropriate PPE.

2) All visitors will be provided with and must wear appropriate PPE as recommended by the CDC.

3) If a visitor refuses to wear a mask or other PPE as indicated, they will be

asked to leave the facility.

v. All visitors must undergo symptom and temperature checks upon entering the facility. If they fail the screening, they will not be allowed entry into the facility.

vi. All visitors must perform hand hygiene before visiting a patient.

1) Once in the hospital or facility, visitors shall remain in the patient's room (or Emergency Department bay) as much as possible throughout the visit, except when directed by hospital or facility staff to leave during aerosol-generating procedure or other procedures in which visitors are usually asked to leave. Visitors may use the cafeteria and other amenities available to patients or visitors.

2) Visitors may not be present during procedures or in the recovery room, except **for pediatrics, childbirth, and patients with an intellectual, developmental, or other cognitive disability.**

3) Same day surgery or procedure patients, **except for pediatrics, childbirth, and patients with an intellectual, developmental, or other cognitive disability**, may have one support person. The support person may remain with the patient through the initial intake process and may rejoin the patient for the discharge process.

4) Outpatients may be accompanied by one adult. Visitors may wait for the patient in the hospital or facility's designated waiting area (subject to physical space availability), while the patient is having his/her procedure.

5) All visitors must comply with all reasonable requirements imposed by the hospital or facility to minimize the potential spread of infection.

d. Policies Surrounding Discharge of Patients After the Procedures are Completed

Hospital discharge policies are not changed.

e. Reporting Metrics Regarding the Resumption of these Procedures

To ensure the ability of health systems and hospitals to surge during a potential second wave of COVID-19, hospitals must continue to collect and report the following data through the portal:

i. COVID-19 case counts;

ii. Non-COVID-19 case counts; and

iii. Capacity data.

The portal designated by the New Jersey Office of Emergency Management under Executive Order No. 111 (2020) is maintained by the New Jersey Hospital Association and is accessible here: https://ppe.njha.com/

f. Appendix - Key Resources, Recommendations and Guidance Documents

i. The latest DOH Executive Directives and Waivers: https://nj.gov/health/legal/covid19/ and guidance: https://www.nj.gov/health/cd/topics/covid2019_healthcare.shtml.

ii. The latest guidance from the Centers for Disease Control and Prevention (CDC): https://www.cdc.gov/coronavirus/2019-ncov/communication/guidance-list.html.

Planning:

i. CDC Guidance for U.S. Healthcare Facilities about Coronavirus (COVID-19) by Facility Type: https://www.cdc.gov/coronavirus/2019-ncov/hcp/us-healthcare-facilities.html.

ii. CDC Preparedness Tools for Healthcare Professionals and Facilities Responding to COVID-19: https://www.cdc.gov/coronavirus/2019-ncov/hcp/preparedness-checklists.html.

Infection Prevention and Control:

i. CDC Information for Healthcare Professionals about Coronavirus (COVID-19): https://www.cdc.gov/coronavirus/2019-nCoV/hcp/index.html.

ii. CDC Guidance for Cleaning and Disinfecting: https://www.cdc.gov/coronavirus/2019-ncov/community/clean-disinfect/index.html.

PPE:

i. DOH Infection Prevention & Control Resources for COVID-19: https://www.nj.gov/health/cd/documents/topics/NCOV/COVID19_Infection_Prevention_and_Control_Resources.pdf.

Staffing:

i. DOH Guidance for COVID-19 Diagnosed and/or Exposed Healthcare Personnel: https://www.nj.gov/health/cd/documents/topics/NCOV/Guidance_for_COVID19_Diagnosed_andor_Exposed_HCP.pdf

ii. DOH Protocols for Essential Personnel to Return to Work: https://www.nj.gov/health/cd/documents/topics/NCOV/COVID_essential_personnel_return_to_work.pdf.

Pre-Procedure Testing:

i. DOH Laboratory Testing Information and Guidance: https://www.nj.gov/health/cd/topics/covid2019_healthcare.shtml#6.

ii. Regarding insurance coverage and billing for testing:

1) Community-based and local testing locations: https://covid19.nj.gov/faqs/nj-information/general-public/where-and-how- do-i-get-tested-for-covid-19-in-new-jersey-who-should-get-testing.

2) Information on insurance enrollment: https://nj.gov/governor/getcoverednj/ and information for the uninsured or undocumented residents: https://nj.gov/health/cd/documents/topics/NCOV/COVID-19_Resources_forUndocumented_and_UninsuredFactsheet.pdf.

3) Federal resources may be available from the Centers for Medicare & Medicaid Services (CMS), from the Federal Emergency Management Agency (FEMA), and/or from the Health Resources & Services Administration (HRSA).

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.

Dated: October 21, 2020

Judith M. Persichilli, RN, BSN, MA
Commissioner