COMMONWEALTH OF PENNSYLVANIA

OFFICE OF THE GOVERNOR

ORDER OF THE GOVERNOR OF THE COMMONWEALTH OF PENNSYLVANIA TO ENSURE THE EFFICIENT ALLOCATION AND EFFECTIVE USE OF CRITICAL MEDICAL RESOURCES

WHEREAS, the World Health Organization and the Centers for Disease Control and Prevention have declared the coronavirus disease 2019 ("COVID-19") a pandemic; and

WHEREAS, the President of the United States of America has declared the COVID-19 outbreak a national emergency and the U.S. Department of Health and Human Services ("HHS") Secretary has declared the COVID-19 outbreak a public health emergency; and

WHEREAS, pursuant to section 7301(a) of the Emergency Management Services Code, 35 Pa. C.S. § 7301(a), I am charged with the responsibility to address dangers facing the Commonwealth of Pennsylvania ("Commonwealth") that result from disasters; and

WHEREAS, in executing the extraordinary powers outlined above, I am further authorized pursuant to section 7301(b) of the Emergency Management Services Code, 35 Pa. C.S. § 7301(b), during a disaster emergency to issue, amend, and rescind executive orders, proclamations, and regulations, and those directives shall have the force and effect of law; and

WHEREAS, on March 6, 2020, pursuant to section 7301(c) of the Emergency Management Services Code, 35 Pa. C.S. § 7301(c), I proclaimed the existence of a disaster emergency throughout the Commonwealth as a result of COVID-19; and

WHEREAS, the Commonwealth has taken extraordinary but vital measures to prevent the spread of COVID-19, including ordering non-life sustaining businesses to close (pursuant to my Business Closure Order of March 19, 2020, and as amended thereafter) and ordering all Commonwealth individuals to stay at home (pursuant to my Stay at Home Order of April 1, 2020); and

WHEREAS, pursuant to my March 6, 2020, Proclamation of Disaster Emergency, the Commonwealth has (as of April 5, 2020) used emergency procurement procedures to acquire over $24 million in personal protective equipment ("PPE") and other medical resources required to respond to, provide care for those afflicted by, or otherwise prevent the spread of COVID-19, such as N95 face masks, ventilators, respirators, face shields, safety goggles, disinfectants, and other sanitizing solutions to provide to healthcare workers, facilities, and emergency responders; and

WHEREAS, the Commonwealth has received a cache of PPE and other medical resources from the HHS Strategic National Stockpile, along with offers of donations from the public and private industry to provide to healthcare workers, facilities, and emergency responders in response to COVID-19; and

WHEREAS, the Commonwealth has taken steps to expand access to healthcare facilities to respond to COVID-19 hospitalizations across Pennsylvania; and

WHEREAS, the Commonwealth has partnered with the Federal Emergency Management Agency and the U.S. Army Corps of Engineers to provide two additional field medical systems to supplement the Pennsylvania healthcare system response to COVID-19; and

WHEREAS, the Commonwealth continues to support or operate community-based testing locations in those regions of the Commonwealth with the highest number of persons who have tested positive for COVID-19; and

WHEREAS, all members of the Commonwealth's healthcare coalitions, including all hospitals and most skilled nursing facilities, previously signed the Statewide Healthcare Mutual Aid Agreement, which allows facilities to transfer supplies, staff, and information across facility, system, and regional boundaries, and has been used multiple times in many prior disasters and emergencies; and

WHEREAS, despite the voluntary efforts of healthcare providers and despite the exhaustive work of Commonwealth agencies to procure PPE and other medical resources from private industry to support Pennsylvania's healthcare workers, facilities, and emergency responders, a critical shortage of PPE, pharmaceuticals, and other medical resources remains; and

WHEREAS, there is a further and urgent need, based upon consultation with the Secretary of Health and the Director of the Pennsylvania Emergency Management Agency, to harness all Commonwealth medical resources to meet the imminent surge of COVID-19 cases and prevent overwhelming the Commonwealth's healthcare system by moving these resources throughout the Commonwealth as needed; and

WHEREAS, as of April 8, 2020, 16,239 persons have tested positive for COVID-19 in the Commonwealth in all 67 counties, and 310 persons are reported to have died from the virus; and

WHEREAS, these numbers are expected to continue to rise, thereby creating an even larger need for PPE, pharmaceuticals, and other medical resources for healthcare workers, facilities, and emergency responders; and

WHEREAS, in addition to general powers during a disaster emergency, I am specifically authorized pursuant to section 7301(f)(4) of the Emergency Management Services Code, 35 Pa. C.S. § 7301(f)(4), to commandeer or utilize any private, public, or quasi-public property if necessary to cope with the disaster emergency, subject to any applicable requirements for compensation.

NOW THEREFORE, pursuant to the authority vested in me and the Executive branch by the laws of the Commonwealth of Pennsylvania, I do hereby ORDER and PROCLAIM as follows:

In accordance with sections 7304(f)(4) and 7313(10) of the Emergency Management Services Code, the Pennsylvania Emergency Management Agency, in coordination with Commonwealth agencies engaged in the procurement of PPE and other medical resources, is hereby authorized to commandeer and utilize all PPE, pharmaceuticals, and other medical resources required to respond to, provide care for those afflicted by, or otherwise prevent the spread of COVID-19 from all private, public, and quasi-public health care providers and facilities, as well as manufacturers and suppliers of PPE, pharmaceuticals, and other medical resources located within the Commonwealth of Pennsylvania. 35 Pa. C.S. § § 7304(f)(4), 7313(10).

Private, public, and quasi-public healthcare providers and facilities, as well as manufacturers, distributors, and suppliers of PPE, pharmaceuticals, and other medical resources located within the Commonwealth, are required to submit current inventory quantities of PPE, pharmaceuticals, and other medical resources as directed by the Pennsylvania Management Agency within 5 days of this Order and to provide updates subsequently as directed by the Pennsylvania Emergency Management Agency.

To facilitate the Commonwealth's awareness of health care providers, facilities, and regions in the most dire need of PPE, pharmaceuticals, other medical resources, and staffing during the disaster emergency, health care providers and facilities and their representatives who are part of the incident command structure must report information to the leadership of the Department of Health and the Pennsylvania Emergency Management Agency in accordance with the schedule as directed by those agencies. Further, such entities shall cooperate with data-sharing and information exchanges as requested by the Department of Health and the Pennsylvania Emergency Management Agency.

The Pennsylvania Emergency Management Agency will coordinate with Commonwealth agencies to provide for the availability and use of the identified PPE, pharmaceuticals, and other medical resources by healthcare workers, facilities, and emergency responders to respond to COVID-19. Commonwealth agencies shall provide for payment to affected healthcare providers and facilities, manufacturers and suppliers of PPE, pharmaceuticals, and other medical resources under terms and conditions agreed upon. The compensation price of PPE, pharmaceuticals, and other medical resources shall be the average price at which the same or similar consumer goods or services were obtainable in the affected areas during the last seven days immediately prior to March 6, 2020.

This order is effective immediately and shall remain in effect for the duration of the disaster emergency.

GIVEN under my hand and the Seal of the Governor, at the city of Harrisburg, on this eighth day of April two thousand twenty, the year of the commonwealth the two hundred and forty-fourth.

TOM WOLF
Governor