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ORDER OF THE COMMISSIONER OF PUBLIC HEALTH REGARDING CONTROL OF COVID-19 IN LONG-TERM CARE FACILITIES

On March 10, 2020, Governor Charles D. Baker declared a State of Emergency in the Commonwealth to respond to the spread of COVID-19. The Public Health Council has approved and authorized me to take such actions, incur such liabilities, and establish such rules, requirements, and procedures which are 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, consistent with the Governor's declaration.

As of November 4, 2020, the Department reported 158,937 confirmed cases of COVID-19 and 9,836 deaths among confirmed cases in the Commonwealth. As of that date, the Department reported 25,773 confirmed or probable cases of COVID-19 among residents and staff of long-term care facilities in the Commonwealth, and 6,451 deaths among those confirmed and probable cases.

Across the country, including in Massachusetts, long-term care facilities have been disproportionately impacted by COVID-19. This disease presents increased risk of severe illness, complications, and death to older adults and particularly those with chronic conditions. Effective monitoring, adequate staffing levels, and adherence to infection control standards are essential to preventing and containing COVID-19 in long-term care facilities. Swift intervention is vital to mitigating the impact on long-term care residents and staff, and on communities in the Commonwealth.

Accordingly, 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 the public health during the continuing public health emergency, I issue the following Order:

1. If the Department determines that there is a threat to the health and safety of residents of a licensed long term care facility due to the risk of uncontrolled transmission of COVID-19 within the facility, the facility must take such steps as the Department determines are necessary to mitigate the risk and protect the health and safety of residents and staff, including accepting support and assistance from the Commonwealth.

Following such a determination and upon notice from the Department, the facility must stop accepting new admissions until such time as the conditions at the facility have sufficiently improved and the Department notifies the facility that it may resume admissions.

The Department will base such a determination in consideration of the following factors:

a. Rate of healthcare-associated COVID-19 within the facility;
b. Inadequate staffing;
c. Failure to report a lack of adequate supplies or staff to the Department;
d. Failure to comply with applicable testing policies;
e. Findings of deficiency during a survey; or
f. Any combination of factors, including but not limited to failure to comply with the requirements of section 2 below and history of poor quality performance scores, which together create an increased risk to residents and staff.

2. All licensed long-term care facilities must cooperate with the Commonwealth's efforts to monitor and respond to the risk of COVID-19 infection in their facilities. Facilities must:

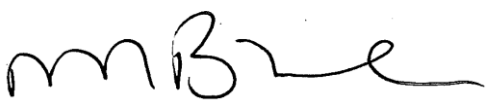
a. Report to the Department when conditions in their facility create an increased risk of outbreak, including shortages or potential shortages of adequate staff or PPE;
b. Provide physical access to Department staff and access to any requested information;
c. Ensure sufficient staffing and appropriate training in infection control procedures for all staff;
d. Ensure access to adequate PPE and other supplies necessary for infection control at the facility;
e. Implement appropriate infection control procedures through the facility, and
f. Accept support and assistance from the Commonwealth

3. The conditions of this Order do not alter any additional applicable statutory or regulatory requirements or limit the Department's ability to take additional actions as may be necessary.

4. The Department will publish, and may periodically update, guidance to implement this Order.

This Order shall remain in effect from November 5, 2020, 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

November 5, 2020