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JUDITH M. PERSICHILLI, RN, BSN, MA
*Commissioner*

**EXECUTIVE DIRECTIVE NO. 20-033**

**Directive for Point of Care testing at all Long-Term Care Facilities licensed pursuant to N.J.A.C. 8:43, N.J.A.C. 8:39, N.J.A.C. 8:36 and N.J.A.C. 8:37**

WHEREAS, Coronavirus disease 2019 ("COVID-19") is a contagious, and at times fatal, respiratory disease caused by the SARS-CoV-2 virus; 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, 186, 191, and 200; and

WHEREAS, Executive Directive 20-013 issued May 20, 2020, instituted a testing requirement for COVID-19 in New Jersey licensed Long-Term Care Facilities, Assisted Living Residences, Comprehensive Personal Care Homes, Residential Health Care Facilities, and Dementia Care Homes (collectively "LTCFs" or "facilities"); and

WHEREAS, New Jersey has created a guide, *The Road Back: Restoring Economic Health Through Public Health*, which outlines six key principles and benchmarks to guide the process for restoring New Jersey's economic health by ensuring public health and how activities are going to be restarted in stages; and

WHEREAS, Executive Directive 20-026 issued October 20, 2020, instituted reopening protocols and requirements for all LTCFs based on CMS reopening guidance and the stages of State reopening; and

WHEREAS, The New Jersey Department of Health (NJDOH) issued Holiday Visitation Guidance on November 20, 2020: https://www.nj.gov/health/legal/covid19/11-16-20 Memo Long Term CAre Facilities - -NJ Department of Health Holiday Visitation Guidance.pdf and CMS issued a Holiday Alert: https://www.cms.gov/files/document/covid-facility-holiday-recommendations.pdf and guidance for all CMS certified facilities, with requirements and recommendations for the safety of staff and residents during the holiday season visitation and celebrations; and

WHEREAS, LTCFSs have been heavily impacted by COVID-19 and NJDOH has taken an aggressive approach to detection of and response to the virus in these vulnerable populations; and

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:

The provisions in this Directive apply to all residential healthcare facilities, Long-Term Care Facilities, Assisted Living Residences, Comprehensive Personal Care Homes, Residential Health Care Facilities, and Dementia Care Homes (collectively "LTCFs" or "facilities"); as defined in N.J.S.A. 26:2H-12.87[1]; and N.J.A.C. 8:43, N.J.A.C. 8:39, N.J.A.C. 8:36 and N.J.A.C. 8:37 with a Clinical Laboratory Improvement Amendment (CLIA) Certificate of Waiver, Certificate of Compliance or Certificate of Accreditation (CLIA).

The April 13, 2020 Emergency Curtailment of Admission Order is still in effect. Facilities that cannot implement proper infection control protocols, cannot cohort, or do not have enough staff, PPE and cleaning supplies to properly care for all residents, may not admit or readmit residents into their facility. April 13, 2020 order: https://www.nj.gov/health/legal/covid19/4-13-20_EmergencyCurtailmentOfAdmissions.pdf.

The NJDOH started distributing Abbott BinaxNOW COVID-19 Ag Card (BinaxNOW) Point of Care (POC) tests to all long term care facilities with a CLIA Certificate of Waiver covered by Executive Directive 20-026: https://www.state.nj.us/health/legal/covid19/8-20_ExecutiveDirectiveNo20-026_LTCResumption_of_Svcs.pdf and this directive, on November 23, 2020. Facilities that have questions regarding BinaxNOW tests and this pilot program may submit their questions to: CNLLTCSEPHE.Notification@doh.nj.gov.

## I. Requirements for Initiating Point of Care Testing in Long-Term Care Facilities, Assisted Living Residences, Comprehensive Personal Care Homes, Residential Health Care Facilities, and Dementia Care Homes.

[1] As defined in N.J.S.A. 26:2H-12.87, long-term care facility means a nursing home, assisted living residence, comprehensive personal care home, residential health care facility, or dementia care home licensed pursuant to P.L. 1971, c. 136 (C.26:2H-1 et seq.).

1. All facilities that receive BinaxNOW tests **and** have a CLIA Certificate are required to test all staff and visitors and certain residents starting on November 30, 2020 until December 14, 2020 as follows:

    i. Test all staff who are scheduled to work three or more consecutive days, every other day using, BINAXNow tests. Facilities may supplement the BinaxNOW testing with other FDA approved or authorized POC tests if the facility has enough supply to do so. Test all other staff if a period of 48 hours or more has passed since their last shift worked, using an FDA approved or authorized POC test. Staff are only required to be tested on the days they are working in the facility. Facilities are encouraged to create a testing schedule for staff to satisfy this provision. This requirement shall supersede the weekly testing requirement in Executive Directive 2020-26 until all BinaxNOW supplies are exhausted or on December 14, 2020, whichever comes first. Upon supply exhaustion, facilities must restart weekly testing of staff in accordance with E.D. 20-026. Facilities that would be subject to the pilot but that do not receive BinaxNOW tests from the NJDOH as of November 30th, and that possess ample supplies of their own POC tests, are encouraged to use them to test staff every other day until they receive BinaxNOW allocations from the NJDOH;

    ii. Test all residents that leave the facility frequently (e.g. for dialysis treatment) or for a prolonged length of time, such as over 24 hours, every other day or on a schedule determined by care coordinators using clinical management observations and/or the results of the risk assessment document published by CDS here: https://www.nj.gov/health/cd/topics/covid2019_healthcare.shtml#2. Additional guidance for the proper care of residents that leave a facility frequently can be found here: https://www.nj.gov/health/cd/documents/topics/NCOV/COVID_Cohorting_PAC.pdf. This requirement shall remain in effect until all BinaxNOW facility supplies are exhausted or on December 14, 2020 whichever comes first. Upon supply exhaustion, facilities must follow the provisions regarding resident testing in E.D. 20-026. Facilities that would be subject to the pilot but that do not receive BinaxNOW tests from the NJDOH as of November 30th, and that possess ample supplies of their own POC tests, are encouraged to use them to test residents on a schedule determined as described above, until they receive BinaxNOW allocations from the NJDOH. This testing requirement does not supersede existing resident testing obligations (e.g. testing as directed by a Local Health Department in response to an outbreak);

    iii. Test any visitor entering the facility (except for EMS personnel in an emergency situation) with an FDA approved or authorized POC test, unless the visitor can provide proof of a negative FDA approved or authorized POC test collected and performed in the past 24 hours. This requirement shall remain in effect until all BinaxNOW facility supplies are exhausted or until December 14, 2020, whichever comes first. Upon supply exhaustion, facilities must follow the provisions regarding

visitation in E.D. 20-026. Facilities that would be subject to the pilot but that do not receive BinaxNOW tests from the NJDOH as of November 30th, and that possess ample supplies of their own POC tests, are encouraged to use them to test visitors until they receive BinaxNOW allocations from the NJDOH;

a. If antigen testing is used, please refer to CDS guidance for testing interpretation: https://www.nj.gov/health/cd/documents/topics/NCOV/COVID-19_Antigen_Testing_in_LTCF.pdf.

b. Only POC 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.

c. All facilities that perform COVID-19 POC tests (such as antigen tests) in their facilities must possess a federal CLIA Certificate, in accordance with federal law. 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.

iv. Testing may be performed in a staggered manner during the day after staff commence their shift. Staff that receive a positive or presumptive positive POC test result must leave the facility. Facilities should refer to NJDOH Healthcare Personnel (HCP) Exposure to Confirmed COVID-19 Case Risk Algorithm and Guidance for COVID-19 Diagnosed and/or Exposed Healthcare Personnel for management of positive staff. Facilities may test the individual within 48 hours with a molecular test (such as a Polymerase Chain Reaction (PCR) test). Please refer to CDS guidance for testing interpretation: https://www.nj.gov/health/cd/documents/topics/NCOV/COVID-19_Antigen_Testing_in_LTCF.pdf

v. Facilities that have signed up to submit data through the National Healthcare Safety Network (NHSN) in accordance with ED 20-026, may submit antigen test results through the NHSN POC module. Test results for this pilot may be entered once a week into the NHSN module but the Local Health Department must be immediately notified of any positive test.

vi. For facilities not yet registered with NHSN or with no access to the module, all POC testing results should be recorded, and local health departments should be notified immediately of a positive test result and of negative results at least once a week. Positive results should be reported immediately to the local health department in order to start mitigation and facility-wide testing guidance.

vii. Facilities are prohibited from billing or submitting insurance claims for collection and processing of BINAXNow tests under this pilot.

2. Resident testing will continue per E.D. 20-026 as follows**:**

   i. Repeat weekly testing of all residents (every 3 to 7 days) until: 1) there are no new facility-onset cases* of COVID-19 identified among residents; 2) there are no positive cases in staff; 3) at least 14 days have elapsed since the most recent resident and staff positive result ; **and** 4) during this 14-day period at least two weekly tests have been conducted with all residents and staff having tested negative.

   ii. Retesting of residents who have been confirmed positive in accordance with CDS and CDC guidance.

   *Facility onset SARS-CoV-2 infections refer to SARS-CoV-2 infections that originated in the facility. It does not refer to the following:

   - Residents who were known to have C*OVID-19 on admission to the facility and were placed into appropriate Transmission-Based Precautions to prevent transmission to others in the facility.*

     *Residents who were placed into Transmission-Based Precautions on admission and developed SARS-CoV-2 infection within 14 days after admission*.

3. Any resident or staff who is newly symptomatic consistent with COVID-19 must be retested at the onset of symptoms, regardless of the interval between the most recent negative test and symptom onset.

4. Facilities that do not have a CLIA certificate are not required to participate in this pilot but must continue to test residents and staff in accordance with Executive Directive 20-026.

This Directive shall take effect immediately.

Dated: November 29, 2020

Judith M. Persichilli

Judith M. Persichilli, RN, BSN, MA
Commissioner