Maryland
DEPARTMENT OF HEALTH

DIRECTIVE AND ORDER REGARDING NURSING HOME MATTERS
Pursuant to Executive Order No. 20-04-29-01

I, Robert R. Neall, Secretary of Health, finding it necessary for the prevention and control of 2019 Novel Coronavirus ("SARS-CoV-2" or "2019-NCoV" or "COVID-19"), and for the protection of the health and safety of patients, staff, and other individuals in Maryland, hereby authorize and order the following actions for the prevention and control of this infectious and contagious disease under the Governor's Proclamation of Catastrophic Health Emergency and the Order of the Governor of the State of Maryland No. 20-04-29-01, dated April 29, 2020, Amending and Restating the Order Dated April 5, 2020 Authorizing Various Actions Related to Nursing Homes and Other Health Care Facilities. **This Directive and Order replaces and supersedes the Directives and Orders Regarding Nursing Home Matters, dated April 24th, April 9th, and April 5th.**

1. **Protecting Nursing Home Residents**: Facilities licensed under Title 19, subtitles 3 and 14 of the Health-General Article and COMAR 10.07.02 ("nursing homes") shall immediately ensure that they are in full compliance with all U.S. Centers for Disease Control and Prevention (CDC), U.S. Centers for Medicare & Medicaid Services (CMS) and the Maryland Department of Health (MDH) guidance related to COVID-19.

Nursing homes shall check CDC, CMS, and MDH guidance daily to ensure that they are complying with the most current guidance and adjust their policies, procedures, and protocols accordingly.

2. **Protecting Nursing Home Staff**: Maryland continues to prioritize nursing homes in the highest category to receive personal protective equipment (PPE).

A. All nursing homes shall use the process established by MDH to request PPE from the State: PPE Request Form. All nursing home staff are required to implement the CDC's Strategies to Optimize the Supply of PPE and Equipment.

B. All personnel who are in close contact with residents of nursing homes shall use appropriate personal protective equipment, such as masks, face shields, gloves, and gowns, based on the procedures being performed and the availability of specific forms of PPE. Facilities shall use good faith efforts to maintain adequate supplies of all types of PPE. The appropriate PPE should be worn at all times while providing care to residents in the facility, and personnel should follow CDC guidance for using personal protective equipment. Other equipment may be used for the appropriate clinical situations, such as respirators for aerosol generating procedures; in all other cases, the staff must use a procedure or surgical mask, or the best available equipment as specified in the above CDC's Strategies to Optimize the Supply of PPE and Equipment. If a facemask must be taken off for the purposes of eating or drinking, personnel should ensure they are maintaining appropriate social distances (greater than 6 feet) from others.

3. **<u>Outbreak Prevention, Testing, Reporting, and Containment</u>:**

A. Emergency Preparedness Plan: Subject to 42 C.F.R. § 483.73 and COMAR 10.07.02.40, each facility shall:

I. Implement its emergency preparedness plan/emergency and disaster plan including notification of families and staff; increase as appropriate its staff coverage, organization and assignment of responsibilities; and track residents displaced due to the COVID-19 outbreak;

II. Designate and provide the Maryland Department of Health's Office of Health Care Quality with the contact information for its emergency and disaster planning liaison as well as to the local jurisdiction's emergency management office and health department;

III. Provide the plan and regular weekly updates on the implementation of each facility's plan to the Maryland Department of Health's Office of Health Care Quality; and

IV. Each facility shall register with the Chesapeake Registry and regularly update their personnel needs so that the State may assist with staffing.

B. Facility Reporting to Health Department: In addition to all current reporting requirements to state and local health departments, all facilities shall report the following information to the Chesapeake Regional Information System for Our Patients (CRISP).

On a daily basis, each facility report should include at least the following:

I. The census of occupied beds;

II. Number of residents with positive COVID-19 test results;

III. Number of residents with suspected COVID-19;

IV. Number of residents with negative COVID-19 test results;

V. Number of deaths, by COVID-19 status;

VI. Number of staff with positive COVID-19 test results;

VII. Number of residents with severe respiratory infection or COVID-19 resulting in hospitalization;

VIII. Number of staff with severe respiratory infection or COVID-19 resulting in hospitalization;

IX. Number of residents or staff with new-onset respiratory symptoms that occur within 72 hours of another resident or staff developing respiratory symptoms; and

X. Any other information required.

C. Facility Reporting to Residents, Residents' Representatives and Staff: All facilities must provide informational updates on COVID-19 to residents, residents' representatives, and staff within 12 hours of the occurrence of a single confirmed infection of COVID-19, and/or whenever three or more residents or staff with new-onset respiratory symptoms that occur within 72 hours.

Updates to residents, residents' representatives, and staff must be provided weekly, or each subsequent time a confirmed infection of COVID-19 is identified,and/or whenever three or more residents or staff with new-onset respiratory symptoms occur within 72 hours.

Facilities shall include information on mitigating actions implemented to prevent or reduce the risk of transmission, including if normal operations in the nursing home will be altered.

The above information must be reported to residents, residents' representatives, and staff in accordance with existing privacy statutes and regulations.

D. Testing:

I. Pursuant to a health care provider's order for COVID-19 testing, all nursing homes shall use the most expeditious means available in accordance with federal and state laws and regulations. The most expeditious means may include hospital labs, private labs, or the Maryland State Laboratory. Maryland State Laboratory Guidance can be found here.

II. As directed by MDH, a facility shall perform COVID-19 testing or permit COVID-19 testing to be administered on residents and staff by MDH, a local health department, or by designated MDH Response Team member(s).

Individuals that refuse testing may be required to go to and remain in places of isolation or quarantine, pursuant to Health Gen. Art. § 18-905(a)(iii).

E. MDH Response Teams

All facilities shall comply with all directives from MDH, local health departments, or MDH-designated response teams for the containment of COVID-19.

4. **Staff Assignments:** Nursing homes shall immediately implement, to the best of their ability, the following personnel practices:

A. Establish a cohort of staff who are assigned to care for known or suspected COVID-19 residents.

B. Designate a room, series of rooms, unit, or floor of the nursing home as a separate observation area where newly admitted and readmitted residents are kept for 14 days on contact and droplet precautions while being observed every shift for signs and symptoms of COVID-19.

C. Designate a room, series of rooms, unit, or floor of the nursing home to care for residents with known or suspected COVID-19.

D. Pursuant to COMAR 10.07.02.19's requirements, nursing homes shall maintain adequate staffing to meet the needs of all residents at all times. In determining whether a nursing home has met this requirement, the Office of Health Care Quality will take into account that a resident who has known or suspected COVID-19 generally requires increased direct bedside care hours each day, above the mandated minimum of 3.0 hours in the current regulations.

Direct bedside care may be provided by a registered nurse, licensed practical nurse, geriatric nursing assistant, certified nursing assistant, dietary aide, physical therapy aide, occupational therapy aide, and other qualified staff.

5. **Daily Resident Evaluation for COVID-19 by Clinical Staff:**

As the clinical status of individuals infected with COVID-19 may change quickly and nursing home residents may have an atypical presentation of the infection, each nursing home resident shall be evaluated daily to check for COVID-19 by the nursing home's clinical staff.

The evaluation shall include vital signs as well as the identification of new or worsening signs or symptoms. CDC symptoms for COVID-19 are located here: https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html

An *atypical* presentation of COVID-19 infection may include: lower temperature (<100.0 F); muscle aches; nausea; vomiting diarrhea; abdominal pain; headache; runny nose; or fatigue.

In addition to the daily evaluation, all interdisciplinary team members shall report findings that might represent a significant change of condition to the charge nurse or staff nurse for further assessment.

All evaluations shall be documented in the resident's medical record. The nursing staff shall timely convey significant findings to a physician, nurse practitioner, or physician assistant for follow up face-to-face in-person or via telehealth. Facility staff shall document telephone calls and medical practitioners shall document face-to-face in-person and telehealth visits in the resident's medical record.

The failure of the licensed or certified nursing home staff to comply with this directive may result in referral of the individual to the appropriate licensing board or the criminal and civil penalties described below.

6. **Right of Return for Previously Ill Residents:** Returning residents to their nursing facility, their home, remains a priority. For nursing home residents admitted or seen at a hospital for COVID-19, the residents shall be allowed to return to the nursing home as long as the facility can follow the approved CDC recommendations for transmission-based precautions. If the residents must temporarily go to other facilities, every effort must be made by the receiving and original nursing homes to transfer the residents back to their original nursing homes as soon as possible.

7. **Office of Health Care Quality:**

A. **Discharge Assistance:** The Office of Health Care Quality is directed to assist acute care hospitals, if necessary, in discharging patients who require nursing-home level care. Hospital discharge planners who are unable to place a patient may access this service at: mdh.dischargeassist@maryland.gov

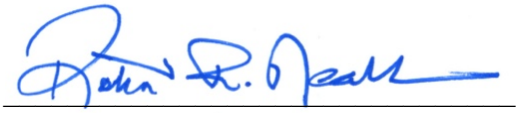
Nursing homes shall cooperate with the Office of Health Care Quality and hospitals in the placement of discharged patients.

B. **Special Safety and Compliance Officer**: The Special Safety and Compliance Officer, as designated by the Secretary, shall monitor facilities' compliance with the Governor's Executive Order and all Departmental orders and directives. All staff of the Health Department are requested and required to provide immediate assistance in the execution of the Officer's duties. All facilities shall provide information as requested by the Officer in connection to responding to COVID-19 in their facility.

8. **Penalties:** A person who knowingly and willfully fails to comply with this Order and Directive is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding one year or a fine not exceeding $5,000 or both.

9. **Severability**: If any provision of this Directive and Order or its application to any person, entity, or circumstance is held invalid by any court of competent jurisdiction, all other provisions or applications of this Directive and Order shall remain in effect to the extent possible without the invalid provision or application. To achieve this purpose, the provisions of this Directive and Order are severable.

THESE DIRECTIVES AND ORDERS ARE ISSUED UNDER MY HAND THIS 29TH DAY OF APRIL 2020 AND ARE EFFECTIVE IMMEDIATELY.



Robert R. Neall
Secretary