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Governor

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Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA
Commissioner

EXECUTIVE DIRECTIVE NO. 21-007 (Revised)

**COVID-19 Related Health and Safety
Requirements for the Reopening of New Jersey
Adult Day Health Services Facilities**

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

WHEREAS, on March 9, 2020, Governor Phillip D. Murphy issued Executive Order 103 (2020), 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 multiple times by Governor Murphy pursuant to various Executive Orders; and

WHEREAS, as confirmed cases of COVID-19 and related fatalities continued to rise, by the end of March 2020, the Department of Health issued a series of orders, on a county-by-county basis, that closed the adult day health services facilities (ADHSFs) licensed under N.J.A.C. 8:43F due to the COVID-19 pandemic, but allowed the ADHSFs to provide off-site services to participants; and

WHEREAS, on June 4, 2021, Governor Murphy signed Assembly Bill No. 5820 into law as P.L.2021, c.103, and issued Executive Order No. 244, which terminated the Public Health Emergency declared in Executive Order No. 103 (2020); and

WHEREAS, P.L.2021, c.103 sought to enable the State to bring an end to its prior Public Health Emergency while still allowing for an orderly continuation of the Administration’s ability to order certain public health measures relating to COVID-19, including but not limited to vaccine distribution, administration, and management; COVID-19 testing; health resource and personnel allocation; data collection; and implementation of recommendations of the Centers for Disease Control and Prevention (CDC) to prevent or limit the transmission of COVID-19, including in specific settings; and

WHEREAS, P.L.2021, c.103 explicitly maintained the State of Emergency declared in Executive Order No. 103 (2020), and stated it would in no way diminish, limit, or impair the powers of the

Governor to respond to any of the threats presented by COVID-19 pursuant to the Disaster Control Act; and

WHEREAS, in addition to leaving the prior State of Emergency in effect, nothing in P.L.2021, c.103 prevented the Governor from declaring any new public health emergency under the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., should the evolving circumstances of COVID-19 require such a declaration; and

WHEREAS, in June 2021, COVID-19 cases, hospitalizations, and ventilator usage were declining; and

WHEREAS, due to the decrease in COVID-19 transmissions and other key metrics, and because of the ongoing success of the State's COVID-19 vaccination efforts, the Department of Health, determined that it was appropriate to reopen ADHSFs; and

WHEREAS, consistent with P.L. 2021, c.103, the Department of Health issued Executive Directive 21-007 on June 15, 2021, which set out the reopening requirements for ADHSFs; and

WHEREAS, on January 11, 2022, Governor Murphy issued Executive Order No. 280, declaring the existence of a new Public Health Emergency, pursuant to the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., and continuing the State of Emergency declared in Executive Order No. 103 (2020) pursuant to the Disaster Control Act, N.J.S.A. App. A:9-33 et seq., in the State of New Jersey due to the surge of cases and hospitalizations tied to the new variants of COVID-19; and

WHEREAS, on January 11, 2022, Governor Murphy also issued Executive Order No. 281, which extended various Executive Orders and State Agency waivers and directives to ensure that the State continued to have the necessary resources in place to respond to the new variants of COVID-19; and

WHEREAS, the Department of Health's Executive Directive 21-007 was included in the list of administrative directives extended under Executive Order No. 281; and

WHEREAS, on February 10, 2022, Governor Murphy issued Executive Order No. 288, which declared that the Public Health Emergency declared in Executive Order No. 280 (2022) continued to exist; and

WHEREAS, through Executive Order No. 288 (2022), Governor Murphy declared all Executive Orders issued and actions taken by any Executive Branch department and agency, in whole or in part in response to the COVID-19 Public Health Emergency, remained in full force and effect; and

WHEREAS, because of the progress the State made and the decisive decrease in key statistics, such as the number of hospitalized patients in the State, the number of daily positive COVID-19 cases, spot positivity, and the rate of transmission, Governor Murphy issued Executive Order No. 292, which lifted the Public Health Emergency declared in Executive Order No. 280 (2022); and

WHEREAS, under Executive Order No. 292, the Governor found it critical to continue the Executive Orders and Administrative Orders, Directives, and Waivers issued in response to the COVID-19 Emergency to ensure that an orderly transition to the next phase of the State’s COVID-19 recovery was done in a measured and thoughtful manner and, consequently, ordered that all actions taken by any Executive Branch departments and agencies in whole or in part to respond to the Public Health Emergency presented by the COVID-19 outbreak, and extended pursuant to Executive Order No. 281 (2022) and attached in the Appendix thereto, including but not limited to any Administrative Orders, Directives, and Waivers, remained in full force and effect pursuant to the Disaster Control Act, N.J.S.A. App. A:9-33 et seq., until revoked or modified by the department or agency head, or until the State of Emergency is no longer in effect, whichever is sooner; and

WHEREAS, the CDC continues to emphasize the importance of maintaining infection prevention and control practices in healthcare settings, given the continued risk of COVID-19 transmission; and

WHEREAS, I have reviewed Executive Directive 21-007 and found that it remains necessary during the current phase of the COVID-19 response, as modified below.

NOW, THEREFORE, I, JUDITH PERSICILLI, Commissioner of the Department of Health, hereby order and direct the following:

All ADHSF licensed under N.J.A.C. 8:43F shall comply with the protocols set forth below. Failure to comply with this Directive may result in the Department taking enforcement actions against the facility, including suspending or revoking an offending facility’s license, as well other penalties available under state or federal law. In all cases, the more stringent requirement shall be enforced.

The requirements in this directive are derived from guidance documents produced by the CDC; however, where appropriate, the CDC’s recommendations have been modified and/or adapted to fit the particular needs and mandates applicable to New Jersey facilities.

I. Responsibilities, Promotion of Behaviors to Prevent and Control COVID-19

- a. ADHSF administrators and staff can help protect themselves and program participants from COVID-19 by promoting and engaging in preventive behaviors that reduce the spread of infection and maintain healthy operations and environments at ADHSF facilities.
- b. Administrators and staff shall abide by all state and federal requirements, including COVID-19 vaccination expectations, as required by the Centers for Medicare and Medicaid Services (CMS) and Executive Orders issued by Governor Murphy.
- c. Participants are encouraged to get vaccinated as recommended by the CDC, information on finding a free COVID-19 vaccine in New Jersey can be found here: <https://covid19.nj.gov/pages/finder>; CDC information on vaccination here:

<https://www.cdc.gov/vaccines/covid-19/index.html>, and
<https://www.cdc.gov/coronavirus/2019-ncov/vaccines/keythingstoknow.html>.

- d. ADHSFs shall comply with all CDC Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic, as amended and supplemented: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html>. This pertains to all individuals who enter the ADHSF including, but not limited to, staff, participants, and visitors.
- e. ADHSFs shall comply with current CMS guidance, as amended and supplemented.
- f. ADHSFs shall educate staff, participants, and visitors about when they should stay home and when they can safely return to the facility. ADHSF shall comply with current CDC and state guidance, as amended and supplemented.
 1. Staff, participants, and visitors should stay home if they have recently tested positive for or have symptoms of COVID-19 and have not yet met the criteria for the discontinuation of isolation per guidance issued by the CDC. Refer to the following CDC recommendations, as amended and supplemented:
 - i. Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html>
 - ii. Quarantine and Isolation: <https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html>
 - iii. Interim Guidance for Managing Healthcare Personnel with SARS-CoV-2 Infection or Exposure to SARS-CoV-2: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assessment-hcp.html>
 - iv. Ending Isolation and Precautions for People with COVID-19, Interim Guidance: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/duration-isolation.html>.
 2. Facilities should continue to monitor the CDC Community Transmission Levels reported on the [CDC COVID-19 Data Tracker](#) and included in the weekly NJDOH COVID-19 Surveillance Report and to modify services as appropriate.
 3. The facility shall ensure that an adequate supply of PPE is available on site as necessary to provide care, including, but not limited to, gloves, gowns, surgical masks, eye protection, N95 respirators or higher, in accordance with NIOSH and

FDA: <https://www.fda.gov/medical-devices/coronavirus-disease-2019-covid-19-emergency-use-authorizations-medical-devices/personal-protective-equipment-euas>.

II. Response Procedures for COVID-19 Cases, Symptoms, or Exposures

- a. ADHSFs shall immediately report any confirmed or suspected exposure to COVID-19 occurring at their facilities and any cases of COVID-19 at their facilities to their local department of health (<https://nj.gov/health/lh/documents/LocalHealthDirectory.pdf>)
- b. Facilities shall notify staff, participants and their caregivers, and others in the facility of cases of COVID-19 in their facility while maintaining confidentiality, consistent with applicable federal and state confidentiality laws.
- c. ADHSFs shall perform contact tracing and notify anyone who had close contact in accordance with applicable state and federal confidentiality laws and CDC Contact Tracing for COVID-19 <https://www.cdc.gov/coronavirus/2019-ncov/php/contact-tracing/contact-tracing-plan/contact-tracing.html>.
- d. Facilities must notify the Department and issue concurrent notifications to participants and families/guardians of temporary closures, capacity changes, or plans to remain closed. This can be done by emailing the Department at CNandLicensingRequests@doh.nj.gov.

III. Questions or Concerns

Questions or concerns about the content, interpretation or application of this directive can be directed to the Department of Health at lisa.king@doh.nj.gov.

This Executive Directive supersedes Executive Directive 21-007, issued on June 15, 2021.

This Directive shall take effect immediately. The provisions of this Directive shall remain in full force and effect until revoked or modified by the Department of Health, or until the State of Emergency is no longer in effect, whichever is sooner.



Dated: February 17, 2023

Judith Persichilli, RN, BSN, MA
Commissioner