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Governor

SHEILA Y. OLIVER
Lt. Governor

JUDITH M. PERSICILLI, RN., BSN, MA
Commissioner

EXECUTIVE DIRECTIVE NO. 20-016 (REVISED)¹

COVID-19 PROTOCOLS FOR AMBULATORY SURGERY CENTERS RESUMING ELECTIVE SURGERY AND INVASIVE DIAGNOSTIC PROCEDURES PURSUANT TO EXECUTIVE ORDER NO. 145

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 Philip D. Murphy issued Executive Order No. 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, on March 23, 2020, Governor Murphy issued Executive Order No. 109 (2020), which ordered that, as of 5:00 p.m. on Friday, March 27, 2020, all “elective” surgeries performed on adults, whether medical or dental, and all “elective” invasive procedures performed on adults, whether medical or dental, would be suspended in New Jersey; and

WHEREAS, the suspension of those surgeries and procedures was necessary at the time because hospitalizations, intensive care unit admissions, and ventilator usage was rapidly spiking, and those surgeries and procedures, whether undertaken in a hospital, ambulatory surgery center or provider’s office, necessarily drew upon the skill and time of critical health care providers and involved the use of equipment and supplies that were needed to treat those who were critically ill; and

WHEREAS, the suspension of those surgeries and procedures preserved the capacity of our healthcare system to deal with the surge of COVID-19 cases; and

WHEREAS, because the number of COVID-19 cases was decreasing, Governor Murphy issued Executive Order No. 145 (2020) on May 15, 2020, permitting the resumption of elective surgeries

¹ This *revised* Executive Directive amends and supersedes Executive Directives No. 20-016, dated June 24, 2020, July 29, 2020, October 20, 2020, and June 16, 2021.

and invasive procedures in hospitals and ambulatory surgery centers beginning on May 26, 2020, subject to a Directive developed by the Department of Health; and

WHEREAS, the Department of Health issued Executive Directive No. 20-016 on June 24, 2020, providing guidance to ambulatory surgery centers resuming elective surgeries and invasive procedures; and

WHEREAS, Executive Directive No. 20-016 was amended on July 29, 2020, October 20, 2020, and June 16, 2021, to correspond with the changing phases of the COVID-19 emergency response; 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, 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 20-016 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 20-016 and find 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:

I. Ambulatory surgery centers performing elective surgeries and invasive procedures shall take these additional steps to protect the healthcare workforce, patients, and visitors:

- a. Comply with all current 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>). See also the 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-assesment-hcp.html>); Ending Isolation and Precautions for People with COVID-19: Interim Guidance (<https://www.cdc.gov/coronavirus/2019-ncov/hcp/duration-isolation.html>); and Strategies to Mitigate Healthcare Personnel Staffing Shortages (<https://www.cdc.gov/coronavirus/2019-ncov/hcp/mitigating-staff-shortages.html>).

- b. Comply with all current CMS requirements, as amended and supplemented, if the facility is CMS certified.
- c. Comply with state and local public health authority requirements for identification, reporting, and containing communicable diseases and outbreaks.
- d. 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 clinical services as appropriate.

II. Personal Protective Equipment (PPE) Requirements for Ambulatory Surgery Centers

- a. 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>, as amended and supplemented.

III. Policies Surrounding Support Persons and Visitors

- a. Ambulatory surgery centers must continue to prioritize the safety and well-being of patients, patient support persons, and staff and develop and implement policies for support persons and visitors in the facility.
- b. Until further notice, visitors and support persons are allowed, consistent with CMS requirements and guidance.
- c. When visitation and support is otherwise restricted, support persons will be allowed as permitted below or in waivers from NJDOH available at: <https://www.nj.gov/health/legal/covid19/>. The facility shall screen and require infection prevention and control practices, in accordance with federal and state guidance.
 - i. Pediatric patients may have both parents or guardians;

- ii. Patients undergoing a same-day surgery or procedure may be accompanied to the facility by a companion and that companion may remain with the patient through the initial intake process and rejoin the patient at discharge; and
- iii. Support person(s) may be present during procedures or in the recovery room for pediatrics, childbirth, and patients with an intellectual, developmental, physical, or other cognitive disability requiring support.

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: January 20, 2023



Judith Persichilli, R.N., B.S.N., M.A.
Commissioner