

## Order of the Secretary of the Pennsylvania Department of Health Requiring Skilled Nursing Facilities to Report Data

COVID-19 is a contagious disease that is rapidly spreading from person to person. People infected are capable of exposing others to COVID-19 even if their symptoms are mild, such as a cough, or even if they are asymptomatic. Additionally, exposure is possible by touching a surface or object that has the virus on it and then touching one's mouth, nose, or eyes. Symptoms of COVID-19 may include fever, cough, shortness of breath, chills, repeated shaking with chills, muscle pain, headache, sore throat, and new loss of taste or smell. Early symptoms may also include chills, body aches, sore throat, headache, diarrhea, nausea/vomiting, and runny nose. Older adults and people who have serious chronic medical conditions are at a higher risk for serious illness.

Many places in the Commonwealth are continuing to experience "community spread" of COVID-19, which means that the illness is being transmitted through unknown sources, not from known areas of infection. Mass gatherings increase the risk of transmission and community spread.

On March 6, 2020, the Governor issued a Proclamation of Disaster Emergency due to the emergency of COVID-19 in the United States and the Commonwealth of Pennsylvania. Since the Commonwealth of Pennsylvania confirmed its first case of COVID-19, the number of positive cases has continued to rise. Case counts rapidly increased throughout the Commonwealth in March and April, 2020. As of May 12, 2020, every county in the Commonwealth has been affected, the number of cases is 57,991 and 3806 individuals have died from the virus.

In order to slow the spread and protect the people of the Commonwealth, the Governor and I issued orders on March 19, 2020, closing all Commonwealth businesses that are not life sustaining. *See Order of the Governor of the Commonwealth of Pennsylvania Regarding the Closure of All Businesses That Are Not Life Sustaining*, as amended; *Order of the Secretary of the Pennsylvania of Health Regarding the Closure of All Businesses That Are Not Life Sustaining*, as amended. On April 1, 2020, the Governor and I issued orders directing all individuals in Pennsylvania to stay at home. *See Order of the Governor of the Commonwealth of Pennsylvania for Individuals to Stay at Home*, as amended; *Order of the Secretary of the Pennsylvania Department of Health to Stay at Home*, as amended. Those mitigation efforts slowed the spread of the disease, protected our hospitals from being overwhelmed, and enabled our hospitals to care for our ill residents. Accordingly, in an order issued on May 8, 2020, the Governor and I suspended restrictions for certain areas instituted in the orders of March 19, 2020, as amended, and April 1, 2020, as amended. *See Order of the Governor of the Commonwealth of*

*Pennsylvania for Limited Opening of Business, Lifting of Stay at Home Requirements, and Continued Aggressive Mitigation Efforts; Order of the Secretary of the Pennsylvania Department of Health for a Limited Opening of Businesses, Lifting of Stay Home Requirements and Continued Aggressive Mitigation Efforts.*

While there has been success in the mitigation strategies practiced by all persons in the Commonwealth and the overall number of new cases continues to slow, person-to-person spread among residents of congregate care homes, including skilled nursing facilities, continues. The spread of COVID-19 is occurring despite the best efforts of public health and other officials and personnel to mitigate and control the spread within these facilities. To further assist the Department in determining and employing the most efficient and practical means for prevention and suppression of COVID-19 within skilled nursing facilities, it is necessary for the Department to have all available and current information. Maintaining a consistent and constant flow of information between skilled nursing facilities and the Department is essential in managing the spread of COVID-19 within these facilities and to protect the health and safety of all persons in the Commonwealth.

COVID-19 is a threat to the public's health, for which the Secretary of Health may order general control measures, including, but not limited to, closure, isolation, and quarantine. This authority is granted to the Secretary of Health pursuant to Pennsylvania law. *See* Section 5 of the Disease Prevention and Control Law, 35 P.S. § 521.5; sections 2102(a) and 2106 of the Administrative Code of 1929, 71 P.S. §§ 532(a), and 536; and the Department of Health's (Department's) regulations at 28 Pa. Code §§ 27.60-27.68 (relating to disease control measures; isolation; quarantine; movement of persons subject to isolation or quarantine; and release from isolation and quarantine). Particularly, the Department has the authority to take any disease control measure appropriate to protect the public from the spread of infectious disease. *See* 35 P.S. § 521.5; 71 P.S. § 532(a), and 1402(a); 28 Pa. Code § 27.60.

Additionally, pursuant to the regulations promulgated under the Health Care Facilities Act, 35 P.S. § 448.801-904(b), long-term care facilities, such as skilled nursing facilities, are required to comply with applicable state laws. *See* 28 Pa. Code § 201.13(g). Nursing care facilities must maintain minimum standards as set by the Department. *See* 28 Pa. Code § 201.14(a). Maintaining minimum standards requires following any disease control measure ordered by the Secretary of Health under the authority afforded to her by statute and regulation.

Accordingly, on this date, May 14, 2020, under the authority granted to me by law and to protect the public from the spread of COVID-19, I hereby order:

Section 1: Skilled Nursing Facilities Reporting of Data to the Department.

- A. Effective May 16, 2020, all skilled nursing facilities licensed in this Commonwealth shall begin reporting in the system designated by the Department all data required by the Centers for Medicaid & Medicare Services (CMS) to be

reported to the Centers for Disease Control and Prevention (CDC). *See* 42 CFR § 483.80(g) (relating to infection control); *see also* QSO-20-29-NH (Memorandum from the Director of the Quality, Safety and Oversight Group of the Center for Clinical Standards and Quality/Quality, Safety & Oversight Group of CMS regarding: Interim Final Rule Updating Requirements for Notification of Confirmed and Suspected COVID-19 Cases Among Residents and Staff in Nursing Homes).

- B. Following the first report of data, which shall be submitted to the Department no later than 11:59 p.m., May 16, 2020, reporting of data shall continue daily on each subsequent date a facility reports to the CDC until this order is suspended.

Sections 2: This Order shall take effect at 12:01 a.m. on May 16, 2020.

Handwritten signature of Rachel Levine, MD, consisting of stylized initials 'RL' followed by 'MP'.

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Rachel Levine, MD  
Secretary of Health