

Amended Order of the Secretary of the Pennsylvania Department of Health Requiring Ambulatory Surgical Facilities to Make Daily Reports of Specified Data Regarding Supplies and Equipment

To protect the health of the people of this Commonwealth, and to determine and employ the most efficient and practical means for the prevention and suppression of disease, I am hereby ordering ambulatory surgical facilities (ASFs) within the Commonwealth to report specified items as directed below for the purpose of managing supplies and equipment, and to help to manage the pandemic response. This information is needed due to development of “community spread” of COVID-19. On March 6, 2020, the Governor issued a Proclamation of Disaster Emergency due to the emergence of COVID-19 in the United States and the Commonwealth of Pennsylvania. Since the Commonwealth of Pennsylvania confirmed its first case of COVID-19, positive cases continue to rise. As of March 31, 2020, the Commonwealth of Pennsylvania had over 4800 positive cases of COVID-19 and reports over 40 deaths from the virus.

The Commonwealth’s attempts to mitigate the effects of COVID-19 continue, but the number of cases is continuing to rise. If the pandemic curve is not flattened, meaning if our mitigation efforts do not sufficiently slow down the virus’ spread, the ability to maintain the health and safety of the Commonwealth will be put severely at risk. COVID-19 has stretched the limits of health care systems in other states and in other countries. Although we have attempted to use lessons learned from across the country and the world to protect this Commonwealth, there is a possibility that COVID-19 will overtax our Commonwealth’s health care systems. To prepare the Commonwealth for that medical surge as best we can, it is necessary for ASFs to work with the Department and to provide it with the most current information on the availability of beds, staff, supplies and other essential items. Maintaining a consistent and constant flow of information between ASFs and the Department of Health is essential in managing the medical surge that this current pandemic is likely to bring. The Department of Health also recognizes that some ASFs have ceased or limited operations. Therefore, on this day, April 1, 2020, under the authority granted to me by law, I hereby amend my Order dated March 26, 2020 and order the following:

Effective immediately and extending until further order, all ASFs licensed or registered in this Commonwealth, including those that have suspended or limited services, are instructed to complete the Ambulatory Surgical Facilities Survey (Survey). ASFs are required to complete all Survey categories for their initial submission. ASFs that have not suspended services in response to COVID-19 must complete the fields of the survey indicated to be mandatory at 0800 every day that the ASF is operational. Further, if any non-mandatory field has changed from the initial submission, the ASF must update that field on the next calendar day’s submission. An ASF that has reopened after a period of suspended services must complete the survey on the first day of its reopening and every operational day thereafter. The Survey will be redistributed via e-mail to facility administrators and the Department’s facility Message Board.

The Department recognizes the tireless efforts made by health care professionals throughout this current emergency, and that they are the front line of the response to this health care crisis. In order to support those efforts, the Department must have the most timely and accurate information available. The information contained in the Survey is crucial for the Department's ongoing efforts to allocate resources and plan for mitigation efforts. The Department's Amended Order today is designed to ensure that the Department has all the information necessary to effectively battle this pandemic.

COVID-19 is a threat to the public's health, for which the Secretary of Health may order general control measures. 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. §§ 521.1; 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) regulations found at 28 Pa. Code §§ 27.60-27.68 (relating to disease control measures). 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 § 28.60.

Additionally, pursuant to the regulations promulgated under the Health Care Facilities Act, 35 P.S. § 448.801-904(b), ASFs are required to follow all applicable state laws. *See* 28 Pa. Code § 553.3(1). This would include following any disease control measure ordered by the Secretary of Health under the authority afforded to her by law and regulation. The current Amended Order is such an order.

The Department determines that the appropriate disease control measure based upon COVID-19, the manner of its spread in the Commonwealth and in the world, and its danger to Pennsylvanians, is for ASFs to provide the information as described above in the Survey daily.

Accordingly, it is hereby ordered that all ambulatory surgical facilities shall complete the Survey and update daily thereafter as prescribed in this Amended Order. This Amended Order shall take effect immediately and remain in full force and effect until further notice.

A handwritten signature in black ink, appearing to read 'RLV MD', is written above a horizontal line.

Rachel Levine, MD
Secretary of Health