



## AMENDED DIRECTIVE AND ORDER REGARDING VARIOUS HEALTHCARE MATTERS

Pursuant to Md. Code Ann., Health-Gen. §§ 2-104, 18-102, 18-103, 18-205, 18-902, 18-904, Public Safety § 14-3A-03, COMAR 10.06.01.06A, and the Governor’s Executive Orders

No. MDH 2020-08-06-01

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 Declaration of Catastrophic Health Emergency. **This Amended Directive and Order replaces and supersedes the Directives and Orders Regarding Various Healthcare Matters, dated July 1, June 19, June 12, May 19, May 6, April 5, and March 23, 2020 and the Directive and Order regarding Availability of Testing dated March 20, 2020.**

### **COVID-19 TESTING & REPORTING**

#### **1. Testing**

##### **A. Testing Framework**

Maryland has increased the availability of COVID-19 testing capacity over the past four months.

With testing now broadly available, Marylanders who believe they should be tested for COVID-19 should contact their healthcare provider. **Healthcare providers shall order a COVID-19 test for any individual who believes it necessary, regardless of symptoms.** Specialty healthcare providers may refer a patient to a primary care provider, if a primary care provider is available.

**Note:** An individual should contact their health plan prior to receiving a COVID-19 test to determine whether testing is covered by the plan in their circumstance. Out-of-pocket expenses may apply if the test is not covered by the health plan.

**Note:** Maryland Medicaid will cover the costs of COVID-19 testing for its beneficiaries.

Any individual who is in one of the following categories should contact their healthcare provider to arrange to be tested:

- i. Any symptomatic individual;
- ii. Asymptomatic individuals where COVID-19 exposure may be possible, including:
  - a. Contacts of confirmed COVID-19 cases (e.g., contact tracing, outbreak or cluster investigation);
  - b. Residents and staff of congregate living settings and long-term care facilities (e.g., nursing homes, assisted living facilities, residential programs and group homes serving individuals with developmental disabilities, behavioral health residential programs and group homes, dormitories, housing shelters, detention or correctional facilities);
  - c. Healthcare workers and first responders (e.g., emergency medical service personnel, home health care workers, and law enforcement personnel);
  - d. Patients, especially high-risk unstable patients, whose care would be altered by a diagnosis of COVID-19;
  - e. Individuals employed in close contact settings (e.g., retail, public transport, school, childcare, camp, food service or processing, personal services) or for children attending school, camp, or child care, and manufacturing; and
  - f. Individuals previously in a large gathering; and
- iii. Individuals who have traveled to or returned to Maryland from out-of-state travel.

Based on a public health cluster, outbreak, or contact tracing investigation, an individual may be directed by the Maryland Department of Health (MDH) or a local health department to be tested.

**B. Serial or Retesting:**

- i. Retesting or serial testing of individuals should be conducted according to clinical or epidemiological indications or as directed by MDH or a local health department.

- ii. Testing of nursing homes and assisted living program residents and staff shall be conducted according to the provisions of the appropriate MDH Orders regarding Nursing Homes and Assisted Living Programs.

**C. Test Sites - Specimen Collection**

- i. COVID-19 test specimens shall be collected in a manner that is in accordance with the U.S. Centers for Disease Control ([CDC](#)) [recommended infection prevention and control practices, including use of recommended personal protective equipment \(PPE\)](#).
- ii. A healthcare provider shall follow the [CDC's guidelines for collecting, handling, and testing clinical specimens from persons for COVID-19](#).
- iii. In addition to those individuals already authorized to collect COVID-19 specimens for testing, any individual licensed, registered, or certified by MDH or a Maryland health occupations board who has appropriate training and supervision may collect COVID-19 test specimens. Individuals and entities offering to perform COVID-19 specimen collection are responsible for ensuring that individuals collecting specimens for testing have the appropriate training and supervision.

**D. COVID-19 Point of Care Testing**

**The following subsection shall take effect at 7:00 A.M., Monday, August 10, 2020.**

Any healthcare provider or healthcare facility, subject to the following terms and conditions, may perform COVID-19 point of care (POC) test analysis pursuant to [Executive Order 20-03-23-02](#) (initiating a process for authorization of laboratories in Maryland to develop and perform COVID-19 testing):

**Note:** This order supersedes, for the duration of the State of Emergency and Catastrophic Health Emergency, any and all other directives from the Maryland Office of Health Care Quality (OHCQ) on the subject of POC testing. OHCQ is directed to prioritize the review and issuance of the necessary permits to effectuate POC testing.

- i. The following devices, which have been given FDA emergency-use authorization (EUA) for COVID-19 testing, are approved for POC testing:
  - a. Cepheid Xpert Xpress
  - b. Mesa Biotech Accula
  - c. Abbott ID Now
  - d. Cue Health Inc. Cue Covid Test
  - e. Quidel Sofia
  - f. BD Veritor System
- ii. A COVID-19 test collection site may perform test analysis if it is licensed by federal and state authorities as a Clinical Laboratory Improvement

Amendments of 1988 (CLIA)-certified laboratory. The healthcare provider or facility shall enroll in the CLIA program and receive a Maryland laboratory license. Applications for State permits and CLIA may be obtained here:

<https://health.maryland.gov/ohcq/Labs/Pages/home.aspx>

Currently licensed laboratories that are not CLIA certified or State licensed to perform COVID-19 testing must submit an application to the Office of Health Care Quality to update their current permits. A list of labs that are certified to perform COVID-19 testing can be found here:

[https://health.maryland.gov/ohcq/Documents/COVID-19\\_Testing\\_LAB\\_list.pdf](https://health.maryland.gov/ohcq/Documents/COVID-19_Testing_LAB_list.pdf)

Additional information about the CLIA Certificate of Waiver can be found here: <https://www.cms.gov/regulations-and-guidance/legislation/clia/downloads/howobtaincertificateofwaiver.pdf>

**Note:** Healthcare providers include, but are not limited to physicians, nurses, pharmacists, and dentists, and other individuals licensed, certified, or registered by MDH or a Maryland health occupations board.

**Note:** The licensed laboratory must disclose to the OHCQ within 30 days any changes in ownership, name, address, or laboratory director or any additional tests that the laboratory plans to perform that it did not include on the original application.

- iii. A laboratory enrolled in the CLIA program and possessing a Maryland laboratory license to conduct COVID-19 testing shall follow all manufacturers' instructions for usage and infection control of the POC testing device(s).

**Note:** The Centers for Disease Control and Prevention has published recommendations for good laboratory practices for waived testing sites: [https://www.cdc.gov/labquality/images/waived-tests/RST-Booklet\\_Dec-2019.pdf](https://www.cdc.gov/labquality/images/waived-tests/RST-Booklet_Dec-2019.pdf)

- iv. Surveys of laboratories will be conducted consistent with CLIA and State licensure requirements and for the purpose of investigating a complaint.
- v. Positive, negative, and inconclusive POC test results shall be reported in accordance with the below test reporting requirements.

## 2. **Positive COVID-19 Test Reporting**

- A. Pursuant to Health General Article §§ 18-205 and 18-904, and COMAR 10.06.01.03 and .04, a medical laboratory performing a test for COVID-19 shall report a positive test result of an individual immediately to MDH and the appropriate local health officer.

- B. The medical laboratory shall immediately notify the requesting healthcare provider of the positive test result and provide a written or electronic report of the positive test result to the requesting healthcare provider to give to the patient.

3. **Negative and Inconclusive COVID-19 Test Reporting**

- A. Pursuant to Health General Article § 18-904, a medical laboratory performing a test for COVID-19 shall report negative and inconclusive test results in addition to positive test results.
- B. A laboratory that is already submitting HL-7 formatted electronic laboratory reports (ELRs) to MDH shall send reports for negative and inconclusive test results in addition to positive test results via HL-7 messaging.
- C. A laboratory that does not submit HL-7 formatted ELRs to MDH shall submit reports for negative and inconclusive test results, in addition to positive test results, immediately to MDH when the result can be sent by another electronic format (i.e. a formatted CSV file).

If the results cannot be sent by HL-7 format or another approved electronic format, they must be immediately submitted to the appropriate local health officer in a manner designated by MDH.

All POC test results shall be submitted via HL-7 formatted ELRs or another approved electronic format (i.e. a formatted CSV file). If the facility reporting the POC test results cannot do so via either of those methods, the facility shall report the results through the following portal: <https://ulp.crisphealth.org/>.

4. **Other Testing Items**

- A. **Availability:** All healthcare providers, facilities, and entities that offer community COVID-19 testing shall make that testing available to any person presenting at the testing site without regard to that person's ability to pay, type of health insurance, or participation in any particular provider network.
- B. **Costs:** Laboratories processing COVID-19 tests for Maryland residents must accept reimbursement from the patients' insurance - private, Medicare, Medicaid or other payers. If a patient is uninsured, providers and laboratories should use this process for reimbursement:  
[https://phpa.health.maryland.gov/Documents/covid19\\_FAQ\\_Uninsured\\_Reimbursement.pdf](https://phpa.health.maryland.gov/Documents/covid19_FAQ_Uninsured_Reimbursement.pdf)

MDH shall make available appropriate financial support to those providing testing to mitigate outbreak situations or as directed by MDH or local health departments.

## **HEALTHCARE PROVIDER MATTERS**

### **5. Elective and Non-urgent Medical Procedures - Licensed Healthcare Facilities and All Healthcare Providers**

#### **A. Prohibition of Elective and Non-Urgent Medical Procedures**

Pursuant to the Executive Order of March 16, 2020 relating to various healthcare matters and in accordance with the guidance issued by MDH and posted on its website at <http://coronavirus.maryland.gov>, all licensed hospitals, ambulatory surgical centers, and all other licensed healthcare facilities shall cease all elective and non-urgent medical procedures effective at 5 p.m., Tuesday, March 24, 2020 and not provide any such procedures for the duration of the catastrophic health emergency.

Pursuant to the Executive Order of March 16, 2020 relating to various healthcare matters and in accordance with the guidance issued by MDH and posted on its website at <http://coronavirus.maryland.gov>, all providers of healthcare licensed, certified, or otherwise authorized under the Health Occupations Article shall perform only medical procedures that are critically necessary for the maintenance of health for a patient. All elective and non-urgent medical procedures and appointments shall cease effective at 5 p.m., Tuesday, March 24, 2020 and shall not be performed for the duration of the catastrophic health emergency.

#### **B. Resumption of Elective and Non-Urgent Medical Procedures - Conditions**

All licensed healthcare facilities and healthcare providers may resume elective and non-urgent medical procedures and appointments provided all of the following measures are in place:

- i. Healthcare providers licensed under the Health Occupations Article shall exercise their independent professional judgment in determining what procedures are appropriate to perform, which appointments should occur, and which patients to see in light of widespread COVID-19 community transmission.
- ii. Any licensed healthcare facility or healthcare provider resuming elective and non-urgent medical procedures in a healthcare setting shall have at least one week's supply of PPE for themselves, staff, and as appropriate, for patients.

**Note:** PPE requests to any State or local health or emergency management agency will be denied for elective and non-urgent medical procedures.

**Note:** The healthcare facility or healthcare provider must be able to procure all necessary PPE for its desired services via standard supply chains.

**Note:** For hospitals with COVID-19 patients, MDH will determine a daily PPE per patient use rate for PPE requests.

**Note:** “Healthcare setting” means: (1) the office of a healthcare provider licensed under the Health Occupations Article; or (2) a healthcare facility as defined in § 19-114 of the Health-General Article.

- iii. Social distancing requirements must be strictly maintained in all settings where people must wait in order to minimize direct contact between individuals within the healthcare setting and use of non-traditional alternatives is encouraged (*e.g.*, call ahead registration; waiting in a car until called).
- iv. All healthcare workers, patients, and others must be screened for COVID-19 symptoms upon arrival for shift or visit. Staff must stay home if they are showing COVID-19 symptoms.
- v. All healthcare facilities and healthcare providers must plan for and implement enhanced workplace infection control measures in accordance with the most current CDC guidelines:  
<https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control.html>

**Note:** All healthcare providers and staff shall wear appropriate face coverings, to include cloth face coverings, surgical face masks or N-95 masks, respirators, and/or face shields.

**Note:** Patients should wear a face covering whenever possible.

- vi. Any healthcare facility or healthcare provider who is unable to provide PPE for themselves, staff, and patients where appropriate shall immediately restrict operations to urgent and non-elective procedures and appointments.

### **C. Certification and Other Matters**

- i. A healthcare facility’s managing authority or the responsible healthcare provider shall certify to MDH via [secretary.health@maryland.gov](mailto:secretary.health@maryland.gov) that all of the above conditions for resumption of elective and non-urgent medical procedures have been met prior to resuming operations. A copy of this self-certification notice shall be posted prominently in the facility for the attention of patients and staff.
- ii. Complaints about a healthcare facility’s implementation of these measures may be directed to the Office of Health Care Quality at <https://health.maryland.gov/ohcq/Pages/Complaints.aspx>. A healthcare provider’s failure to comply with the terms of this order shall be considered to constitute unprofessional conduct, and written complaints about such failures may be directed to the appropriate health occupation board.
- iii. MDH does not construe the immunity provisions in Pub. Safety Art. § 14-3A-06 or Health Gen. Art. § 18-907 to apply to a healthcare provider or facility performing non-COVID-19 related procedures or appointments.

6. **Personal Protective Equipment Conservation Order**

Subject to availability, all healthcare providers are required to implement the U.S. Centers for Disease Control and Prevention’s [Strategies to Optimize the Supply of PPE and Equipment](#), to include, but not limited to:

- A. Use facemasks beyond the manufacturer-designated shelf-life during patient care activities.
- B. Implement limited re-use of facemasks. The healthcare provider must not touch the outer surfaces of the mask during care, and mask removal and replacement must be done in a careful and deliberate manner.
- C. Prioritize facemasks for:
  - i. Provision of essential surgeries and procedures;
  - ii. During care activities where splashes and sprays are anticipated;
  - iii. During activities where prolonged face-to-face or close contact with a potentially infectious patient is unavoidable; and
  - iv. Performing aerosol generating procedures, if respirators are no longer available.

**HEALTHCARE FACILITY MATTERS**

7. **Hospital Contingency Plans**

All licensed hospitals shall implement the medical staff plans required by COMAR 10.07.01.24G(2) to grant temporary disaster privileges. The plans shall remain in effect for the duration of the catastrophic health emergency.

8. **Off-Campus Hospital Facilities**

Notwithstanding the provisions of COMAR 10.07.01.06, off-campus hospital facilities may be used for inpatient hospital care if the proposed off-campus facility would be operated by an existing licensed Maryland hospital under the terms of that hospital’s license and such use would not adversely affect the safety and health of patients served at the off-campus facility.

**OTHER HEALTHCARE MATTERS**

9. **Prescription Devices**

Pursuant to the Executive Order of March 16, 2020 relating to various healthcare matters, manufacturers, wholesale distributors, or other entities engaged in the sale, purchase, distribution or transfer of FDA-approved prescription devices for emergency medical reasons relating to COVID-19 response measures are exempt from Maryland licensure



requirements provided that the manufacturer, wholesale distributor, or other entity is licensed or otherwise authorized to engage in such activity in the state in which it is located.


10. **Penalties**

Persons who violate this Order and Directive may face administrative and criminal sanctions to include imprisonment not exceeding one year or a fine not exceeding \$5,000 or both.

11. **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 6th DAY OF AUGUST 2020 AND ARE EFFECTIVE IMMEDIATELY.



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Robert R. Neall  
Secretary