



**ORDER OF THE HEALTH OFFICER OF THE COUNTY OF CONTRA COSTA
REQUIRING COVID-19 TESTING OF RESIDENTS AND PERSONNEL AT CERTAIN
RESIDENTIAL FACILITIES AND REQUIRING THOSE FACILITIES TO COMPLY
WITH TESTING, REPORTING, AND GUIDANCE REQUIREMENTS OF THE
CONTRA COSTA COUNTY HEALTH SERVICES DEPARTMENT**

ORDER NO. HO-COVID19-15

DATE OF ORDER: MAY 29, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295.)

Summary: The Health Officer of the County of Contra Costa (the “County”) issued a shelter-in-place order on March 16, 2020, in an effort to reduce the impact of the virus that causes novel Coronavirus Disease 2019 (“COVID-19”). That virus is easily transmitted, especially in group settings, and the disease can be extremely serious. It can require long hospital stays, and in some instances it can cause long-term health consequences or death. It can impact not only those known to be at high risk based on age or certain medical conditions but also other people, regardless of age or underlying health condition. This is a global pandemic causing untold societal, personal, and economic harm. Capitalized terms used in this Order are generally defined in Sections 5 through 9 below.

Each Facility that is subject to this Order is a congregate living facility that houses many Residents who are at risk of contracting COVID-19 and experiencing serious health outcomes. To the extent that Residents or Personnel at each Facility that is subject to this Order contract the virus that causes COVID-19, they can unknowingly transmit the virus to other Residents and Personnel. The virus can accordingly spread throughout each Facility, thereby putting the health and lives of all Residents and Personnel at risk. To prevent virus transmission, it is important for each Facility to follow best practices for infection control, to respond quickly and appropriately when suspected or confirmed cases of infection are identified through screening and testing, and to report information about test results, supply levels, and other factors. Best practices to reduce the risk of viral transmission include monitoring for signs of infection in the Residents and Staff, separating and testing those with symptoms consistent with suspected infection, and testing Residents and Personnel who have no symptoms on a repeated basis to identify asymptomatic infections.



Through monitoring and testing, it is possible to identify those who carry the virus and to separate them from others, reducing the risk of transmission, while also taking steps to provide any necessary care. Through such actions Facilities can further protect their Residents and Personnel. Accordingly, this Order requires each listed Facility to follow the Testing, Collaboration, Reporting, and Guidance requirements of the Contra Costa County Health Services Department (“Department”).

This Order goes into effect at 11:59 p.m. on May 29, 2020, and continues indefinitely until it is repealed, modified, or replaced by the Health Officer of Contra Costa County. The Health Officer may revise this Order as the situation evolves, and each Facility must stay updated by checking <https://www.coronavirus.cchealth.org/> regularly. This Order complements and does not replace other orders issued by the Health Officer related to visitation and other infection control practices at certain facilities throughout the County, including Health Officer Order No. HO-COVID19-06.

This summary is for convenience only and may not be used to interpret this Order; in the event of any inconsistency between the summary and the text of this Order below, the text will control.

UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE SECTIONS 101040 and 120175, THE HEALTH OFFICER OF THE COUNTY OF CONTRA COSTA (“HEALTH OFFICER”) ORDERS:

1. Capitalized terms used in this Order have the definitions provided in this Order. This Order goes into effect at 11:59 p.m. on May 29, 2020, and continues until the Order is revoked, replaced, or amended by the Health Officer. While this Order is in effect, each Facility must comply with this Order’s Testing, Cooperation, Reporting, and Guidance requirements (described in Sections 5, 6, 7, and 8), which all serve to protect the health and well-being of Facility Residents and Personnel in light of the COVID-19 pandemic. In addition, all Residents living at and all Personnel working at each Facility must comply with the requirements of this Order applicable to Residents and Personnel, including infection control measures required as the results of Testing. Absent compliance with this Order’s requirements, Residents and Personnel are at increased risk of infection by the virus that causes COVID-19.
2. At this point in the global pandemic, the seriousness of the virus that causes COVID-19 is clear. The virus is easily transmitted, especially in health care and congregate living settings. People who are older and/or who have certain underlying medical conditions are especially vulnerable to the most serious outcomes from infection, including death, but there are documented cases of serious outcomes even absent these risk factors. It is easy for the virus to be transmitted between and among Personnel or Residents, including by those without symptoms (asymptomatic people) or those with mild symptoms. There can also be a substantial delay between contracting the virus and having symptoms, and it is possible to transmit the virus during this pre-symptomatic period. Across the United States and around the world there is substantial evidence of how quickly the virus moves through congregate living facilities, often resulting in high incidence of negative outcomes. In such settings,



taking strong steps to prevent transmission is recommended by the United States Centers for Disease Control and Prevention (“CDC”). For example, risk factors associated with tragic outcomes at a skilled nursing facility in Washington State have been documented here: <https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e1.htm>. Such steps include Resident and Personnel screening and testing, restrictions on visitors, strong infection control programs, and limiting contact between those with the virus and those who have not contracted it. In addition to testing, it is also important for each Facility to follow best practices for infection control, to respond quickly and appropriately when suspected or confirmed positive cases are identified, and to report information about test results, supply levels, and other factors. Through such actions, Facilities can further protect their Residents and Personnel. Given these facts, it is imperative that Testing occur and that each Facility takes all necessary and appropriate steps to minimize the risk to both Residents and Staff, including those steps required under this Order.

3. This Order is also issued in light of the existence, as of May 28, 2020, of 1,384 confirmed cases of infection by the COVID-19 virus in the County, including a significant number of cases of community transmission. In addition, since the start of the pandemic, there have been at least three outbreaks in elder care congregate living facilities in the County. This number highlights just how important it is to take steps to protect Residents and Staff alike. In light of these facts, this Order is necessary to slow the rate of spread to each Facility, and the Health Officer will continue to assess the quickly evolving situation and may modify this Order, or issue additional Orders, related to COVID-19, as changing circumstances dictate.
4. This Order is also issued in accordance with, and incorporates by reference, the April 29, 2020, Shelter in Place Order (Order No. HO-COVID19-14) issued by the Health Officer, the March 4, 2020, Proclamation of a State of Emergency issued by Governor Gavin Newsom, the March 12, 2020, Executive Order (Executive Order N-25-20) issued by Governor Newsom, the March 10, 2020, Proclamation by the Contra Costa County Board of Supervisors declaring the existence of a local emergency, and guidance issued by the California Department of Public Health (“CDPH”) and the CDC, as each of them have been and may be supplemented.
5. **Testing.** For purposes of this Order, “Testing” means the use of a diagnostic test (testing for active infection) related to the virus that causes COVID-19, not an antibody test, or any other test. Testing must occur as described in this Section 5. As described in more detail below, each Facility must cooperate with the Department to complete the Testing of Residents and Facility Personnel in accordance with Testing, Collaboration, Reporting, and Guidance requirements of the Department. Testing of Residents and Facility Personnel may be performed by the Facility, the Department, or a third party.
 - a. In relation to Resident Testing:
 - i. For the duration of this Order, each Facility shall cooperate with the Department to complete the Testing of all Residents of the Facility, subject to restrictions set forth in



subsections 5.a.ii. and 5.a.iii. Testing will be administered at the direction of the Department or the Facility.

- ii. No test will be conducted on a Resident if the test cannot be administered safely, as determined by a physician or the Department. In the event of a conflict regarding whether a test can be administered safely, the decision of the Department controls.
 - iii. Testing of a Resident will be administered only with the consent of the Resident or, if the Resident lacks the capacity to consent to a test, by the Resident's Authorized Decision Maker. This Order does not authorize forcible administration of a test against a Resident's will or without the consent of the Resident's Authorized Decision Maker.
 - iv. The Facility must promptly (within 24 hours) notify the Department to obtain assistance if a Resident is unable or unwilling to be tested, or lacks capacity to make health care decisions, or the Resident's Authorized Decision Maker declines to consent to the testing or other requirements of this Order.
 - v. The Facility must document the Testing results for each Resident in the Resident's medical record (or other individual care record if there is no medical record) kept by the Facility. If a Resident is unable or unwilling to be tested, or the Authorized Decision Maker refuses to consent to testing, that must be documented.
 - vi. Each Facility must immediately (within one hour) report to the Department any positive test result of a Resident as required by subsection 5.d. below. The Facility must also otherwise report all test results as required by law.
- b. In relation to Personnel Testing:
- i. For the duration of this Order, each Facility shall cooperate with the Department to complete the Testing of all Facility Personnel, subject to the restriction set forth in subsection 5.b.ii. Testing will be administered at the direction of the Department or the Facility.
 - ii. Testing of an individual member of the Facility's Personnel will be administered only with the consent of that individual. If a member of a Facility's Personnel does not consent to Testing, the Facility must not permit that individual to come to work or otherwise enter the Facility's premises, unless expressly permitted by the Department.
 - iii. If an individual member of the Facility's Personnel undergoes Testing by a third party, the Facility shall direct the individual to take all steps necessary to ensure that the Facility receives the result within 48 hours if negative, and within 8 hours if positive, either by providing a written copy to the Facility or by signing a release permitting the testing lab or ordering provider to share the result directly with the Facility.



- iv. The Facility must document results of Testing of Facility Personnel, and any refusal to test or to have third-party Testing results disclosed to the Facility, in a secure and confidential manner. The Facility must maintain the confidentiality of information about results of Testing of Personnel and may only share such information as permitted or required by law.
- v. Each Facility must immediately (within one hour) report any positive test result of a member of the Facility's Personnel as required by subsection 5.d below. The Facility must also otherwise report all test results as required by law.
- vii. No member of Facility's Personnel may come to work or otherwise enter the Facility's premises after receiving a positive test result, except as permitted by Department Guidance (as defined in Section 8 below) regarding allowing someone to returning to work after a positive test result, and as set forth below:
 - (a) Facility Personnel who test positive and are asymptomatic can continue to work as long as they are **only** caring for Residents with confirmed COVID-19, preferably in a cohort setting, maintain separation from other Facility Personnel as much as possible (for example, use a separate breakroom and restroom), and wear a facemask for source control at all times while in the Facility. An asymptomatic positive individual member of Facility's Personnel may not care for Residents who have not tested COVID-19 positive until at least 10 days from the date of the individual's positive test.
 - (b) Facility Personnel who test positive and are symptomatic may return to work only after the following conditions are met:
 - (i) At least three days (72 hours) have passed since recovery, defined as a resolution of fever without the use of fever-reducing medications and improvement in respiratory symptoms (e.g., cough, shortness of breath);
 - AND
 - (ii) At least 10 days have passed since symptoms first appeared.
- c. The following requirements apply to Testing under this Order:
 - i. Subject to the restrictions in subsections 5.a.ii. and 5.a.iii., each Resident will undergo testing at least once, no later than July 31, 2020.
 - ii. All Residents must be tested prior to admission or readmission to the Facility.
 - iii. If a Resident admitted from the community tests negative, the Resident must be quarantined for 14 days and then retested. If still negative, the Resident may be released from quarantine.



- iv. Except as otherwise directed by the Department, a Facility shall arrange to test all consenting Facility Personnel no later than July 6, 2020. It is recommended that testing be staggered so that approximately 25 percent of Facility Personnel are tested each week, with the first round completing testing by June 15, 2020. In a Facility with a positive COVID-19 case, the Facility shall implement response-driven testing based on Department guidance, including all of the following:
 - (a) As soon as possible after a COVID-19 positive Resident or member of Facility's Personnel is identified in a Facility, all Residents who tested negative upon initial testing should be serially retested every seven days until no new cases are identified in two sequential rounds of testing. At that point, the Facility may resume its regular surveillance testing schedule for Facility Personnel. If a Resident tests positive, no additional testing is needed for that Resident.
 - (b) Place Residents into the following three separate cohorts based on the test results: (i) positive result; (ii) negative result but exposed within the last 14 days or refused testing or awaiting testing results; and (iii) negative result without known exposure within the last 14 days.
 - (c) The COVID-19 positive cohort should be housed in a separate area (building, unit or wing) of the Facility and have dedicated Facility Personnel who do not provide care for Residents in other cohorts and use separate break rooms and restrooms if possible.
 - (d) As soon as possible after a COVID-19 positive Resident or member of Facility's Personnel is identified in a Facility, all consenting Facility Personnel should be serially retested every seven days until no new cases are identified in two sequential rounds of testing. At that point, the Facility may then resume its regular surveillance testing schedule. In the event that testing capacity is not sufficient to serially retest Facility Personnel according to the above schedule, testing priority should be given to Facility Personnel who worked on the unit with COVID-19 positive Residents, or are known to work at other facilities with cases of COVID-19.
- vi. Residents and Personnel shall comply with Facility infection control and other protocols based on the results of any test, including as directed by the Department, as outlined in Department Guidance, or as outlined by CDPH or CDC guidance. This includes, by way of example and without limitation, isolation, quarantine, cohorting of Residents or Personnel, and transfer of Residents as outlined by Department Guidance or as otherwise directed by Department.
- vii. All Testing must be done using tests that are approved by the United States Food and Drug Administration.



- viii. The Facility must share a Resident’s testing results with that Resident (including the Resident’s Authorized Decision Maker) and must share a Personnel member’s testing results with the tested person, consistent with Department Guidance and as otherwise required by law.
 - ix. If Testing is able to be conducted without use of a laboratory to process the test, then such Testing results are subject to this Order.
- d. Within one hour after receipt of a positive Testing result of a Resident or member of Facility’s Personnel, the Facility must report the result, as well as any other confirmed COVID-19 diagnoses or positive tests of Residents or Personnel (such as when a Resident who is transferred to the Facility is a confirmed carrier of the virus or when a member of the Personnel reports they recently had a positive test result outside the work context), as follows:
- i. To Department Communicable Disease Control (CD) at (925) 313-6740;
- AND
- ii. For any Skilled Nursing Facility or General Acute Care Hospital, also to the CDPH Licensing and Certification District Office at (415) 330-6353.
 - iii. If the Department conducted the Testing that requires reporting under subsection 5.d, the Facility is not required to report the result back to the Department but must still make the other report required by subsection 5.d.ii.
 - iv. In relation to reporting positive test results for Residents or Personnel or a confirmed COVID-19 diagnosis, the Facility must provide all information requested by the Department or the other entity to which a report is required.
- e. In relation to Testing, each Facility must do the following:
- i. The Facility must follow Department direction or any individual Health Officer order to test specific Residents or Personnel, subject to subsections 5.a.ii. and 5.a.iii., whether performing the tests itself or working with Department or another testing provider to conduct the tests. Nothing in this Order prohibits a Facility from also testing Residents or Personnel at its own discretion.
 - ii. The Facility must facilitate Testing and respond to Testing results as appropriate, including taking action based on the results of Testing, pursuant to the Facility’s infection control protocols, Department Guidance, and CDPH and CDC guidelines. The Facility must take all steps required of the Facility by Department in relation to positive, negative, pending, and inconclusive test results.
 - iii. The Facility must maintain written records of Testing as outlined by this Order.



- iv. The Facility must share information about Testing with the Department as requested by Department at any time.
6. **Cooperation.** For purposes of this Order, “Cooperation” means working and collaborating with the Department and otherwise following the direction of the Department in relation to the Facility. The term “Cooperate” means the act of Cooperation. While this Order is in effect, each Facility must cooperate with the Department. Such Cooperation includes, but is not limited to, all of the following:
- a. Promptly taking and responding to telephone calls, emails, and other inquiries and requests by representatives of the Department;
 - b. Permitting Department personnel onsite without advance notice;
 - c. Responding to all Department requests for information in a timely manner;
 - d. Taking steps required by the Department in relation to the operation of the Facility, including, but not limited to, placement of Residents, environmental changes, use of personal protective equipment (“PPE”), closing or re-purposing spaces, and changing staffing patterns or assignments;
 - e. Enacting policies or procedures required by the Department;
 - f. Communicating with Residents, Resident decision-makers and loved ones, and Personnel as directed by the Department;
 - g. Assisting with the assessment of Facility resources, procedures, and physical layout when requested, including by providing Personnel who can show Department staff any areas or required information;
 - h. Disclosing to Department staff protected health information and other medical information that relates to the subject matter of this Order, and such information must be protected by Department as required by law;
 - i. Disclosing to Department staff other information about Facility Personnel relevant to the subject matter of this Order so long as the disclosure of any confidential information under this subsection is limited to the minimum necessary for public health purposes, and any such information that is confidential must be protected by the Department as required by law;
 - j. Facilitating the safe transfer of any Resident to another Facility or other level of care based on the context as directed by the Department;
 - k. Maintaining a bed hold for any Resident who is transferred to another location as a result of the current local health emergency and facilitating the safe return of that Resident at an



appropriate time consistent with Department Guidance or other Department direction;
and

1. Accepting, in an emergency context, a safe transfer of a new Resident to the Facility as directed by Department, with Department being the final decision maker as to whether the transfer is safe.

7. **Reporting.** For purposes of this Order, “Reporting” means collecting, organizing, analyzing, and sharing information and data with the Department or other entities as directed by the Department in any format requested by the Department. “Report” means the act of Reporting. As described in more detail below, each Facility must Report any information, as reasonably necessary to protect public health and the safety and well-being of Facility Residents and Personnel, as directed by Department regarding the Facility and its operation. Such Reporting includes, but is not limited to, all of the following:

- a. Collecting, organizing, analyzing, and sharing data about Residents and Personnel, including but not limited to the number of Residents and Personnel at the Facility, staffing and assignment information, the number of Residents and Personnel with a suspected or confirmed COVID-19 diagnosis, the number of Residents and Personnel who have tested positive for the virus that causes COVID-19, the number of Residents and Personnel who have been tested and when they were tested, and information on Personnel absences and vacancies;
- b. Collecting, organizing, analyzing, and sharing data regarding supply levels (for example, PPE, testing, and cleaning supplies), including the use rate, amount in storage, and anticipated future deliveries;
- c. Collecting, organizing, analyzing, and sharing other information related to the subject matter of this Order as requested by the Department;
- d. Providing such information within the timeframe required by the Department;
- e. Using tools provided or otherwise required by the Department for the purposes of collecting, organizing, analyzing, and sharing information; and
- f. Providing requested information in the format designated by the Department, whether in electronic, hardcopy, verbal, or any other format. The recipient of any confidential information that is subject to Reporting under this Section shall maintain the confidentiality of that information except to the extent that re-disclosure is permitted by law. Note that each Facility must also continue to report other information required by law, including but not limited to reports to the state agency that regulates the Facility. Each Facility must remain current on its compliance obligations and make any reports as required by those obligations.

8. **Guidance.** For purposes of this Order, “Guidance” means the information and guidelines published periodically by the Department regarding the operation of a Facility regarding COVID-19-related issues. As described in more detail below, each Facility must check and



comply with all applicable Guidance issued by the Department and posted online at <https://www.coronavirus.cchealth.org/>. A Facility must also comply with other written documentation provided by the Department to the Facility in other formats.

- 9. Definitions.** For purposes of this Order, the following terms have the listed meanings:
- a. “Administrator” means the Chief Executive Officer, Facility Administrator, or other person designated by the Facility to supervise the operation of the Facility.
 - b. “Authorized Decision Maker” means someone who is authorized by law to make health care decisions on behalf of a Resident and who is currently making such decisions in relation to the Resident. For a Resident subject to a conservatorship, a conservator who has authority to make health care decisions for the Resident is an Authorized Decision Maker. An Authorized Decision Maker can also be someone who is making health care decisions for a Resident where the Resident lacks capacity to make those decisions, including a spouse, parent, or other family member of a Resident or someone who has durable power of attorney to make health care decisions for that Resident.
 - c. “Facility” means each facility listed on Appendix A to this Order, attached hereto and incorporated herein by this reference.
 - d. “Resident” means any person who is (1) residing, including temporarily residing, in and receiving care of any kind from a Facility or (2) requesting admission or readmission to the Facility, either from the community or upon transfer from another health care facility, to reside in and receive care from the Facility. The term Resident includes a patient.
 - e. “Personnel” or “Facility Personnel” means any employee, contractor, volunteer, or other agent of the Facility who works or performs duties onsite at the Facility at any time when this Order is in effect. These terms also includes registry staff or other temporary staffing, who must comply with the requirements of this Order except to the extent an exception is granted by the Department.
10. Each Facility must provide a copy of this Order to any Resident, member of its Personnel, or any other person who requests a copy.
11. Failure to comply with any of the provisions of this Order constitutes an imminent threat, an immediate menace to public health, and a public nuisance. Accordingly, anyone who attempts to violate this Order is subject to fine, imprisonment, or both.
12. This Order may be rescinded, superseded, or amended in writing by the Health Officer or by the State Public Health Officer.
13. A Resident or the Resident’s Authorized Decision Maker may contact the Administrator of the Facility to seek clarification of any part of this Order.



14. The Department must serve a copy of this Order on the Facility's Administrator prior to enforcement of this Order against any Facility.
15. If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other people or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

IT IS SO ORDERED:



May 29, 2020

Chris Farnitano, M.D.
Health Officer of the County of Contra Costa

Attachment: Appendix A

