



State of New Jersey
DEPARTMENT OF HEALTH
PO BOX 360
TRENTON, N.J. 08625-0360
www.nj.gov/health

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

JUDITH M. PERSICILLI, RN, BSN, MA
Commissioner

EXECUTIVE DIRECTIVE NO. 21-010

Establishing COVID-19 Testing and Vaccination Sites Statewide

WHEREAS, on March 9, 2020, Governor Murphy issued Executive Order No. 103, declaring the existence of a Public Health Emergency, pursuant to the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq. (EHPA), and a State of Emergency, pursuant to the Disaster Control Act, N.J.S.A. App. A:9-33 et seq., throughout the State due to the public health hazard created by Coronavirus Disease 2019 (COVID-19); and

WHEREAS, the Public Health Emergency was extended multiple times by Governor Murphy pursuant to various Executive Orders; and

WHEREAS, on March 13, 2020, President Donald J. Trump issued federal Proclamation 9994 declaring that a national emergency began on March 1, 2020, under the National Emergencies Act, 50 U.S.C. §§1601, et seq. (NEA); and

WHEREAS, on February 24, 2021, President Joseph R. Biden extended federal Proclamation 9994 declaring under the NEA that a national emergency has continued to exist since March 1, 2020; and

WHEREAS, the Secretary of the United States Department of Health and Human Services issued a determination under section 319 of the Public Health Service Act, on January 27, 2020, that a public health emergency exists nationwide due to continued consequences of the COVID-19 pandemic and renewed that determination on April 21, 2020, July 23, 2020, October 2, 2020, January 7, 2021, April 15, 2021, and July 19, 2021; and

WHEREAS, the federal government has been working expeditiously to develop, manufacture, and deliver safe and effective COVID-19 vaccines; and

WHEREAS, to date, the U.S. Food and Drug Administration (FDA) has issued Emergency Use Authorizations (EUAs) for three COVID-19 vaccines; and

WHEREAS, to ensure that all individuals who live, work, and/or are educated in New Jersey have equitable access to the COVID-19 vaccine, the Department of Health (DOH) issued Executive Directive No. 20-035, which implemented the State’s COVID-19 Vaccination Plan; and

WHEREAS, N.J.S.A. 26:13-9 provides that, during a state of public health emergency, the Commissioner of Health may “procure, . . . , construct, lease, transport, store, maintain, renovate, or distribute property and facilities as may be reasonable and necessary to respond to the public health emergency”; and

WHEREAS, on June 4, 2021, Governor Murphy signed P.L.2021, c.103 and issued Executive Order No. 244, which among other things, terminated the Public Health Emergency, declared in Executive Order No. 103, but continued the State of Emergency; and

WHEREAS, P.L.2021, c.103 acknowledges termination of the Public Health Emergency but, among other things, authorizes the Commissioner of Health to issue orders, directives, and waivers pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) related to (1) vaccination distribution, administration, and management; (2) COVID-19 testing; (3) health resources and personnel allocation; (4) data collection, retention, sharing, and access; (5) coordination of local health departments; and (6) implementation of any applicable 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, despite the State’s extensive progress in combatting COVID-19 and the termination of the Public Health Emergency pursuant to the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq, COVID-19 remains a threat to New Jersey; and

WHEREAS, the CDC has reported that new variants of COVID-19 have been identified in the United States, and that certain variants, particularly the B.1.617.2 (Delta) variant, are more transmissible; and

WHEREAS, the CDC has emphasized that vaccination is a critical means to prevent spread of COVID-19 and to avoid infection of those individuals that cannot be vaccinated because their age or medical conditions precludes them from receiving one; and

WHEREAS, on July 6, 2021, the U.S. Department of Justice’s Office of Legal Counsel issued an opinion concluding that Section 564 of the Food, Drug, and Cosmetic Act, 21 U.S.C. § 360bbb-3 does not prohibit public or private entities from imposing vaccination requirements while vaccinations are only available pursuant to emergency use authorization; and

WHEREAS, requiring workers in certain settings to receive a COVID-19 vaccine or undergo regular testing can help prevent outbreaks and reduce transmission to vulnerable individuals who may be at a higher risk of severe disease; and

WHEREAS, on August 6, 2021, Governor Murphy issued Executive Order No. 252, setting forth mandatory requirements related to vaccination and testing requiring for certain covered health care facilities and high-risk congregate settings; and

WHEREAS, on August 23, 2021, the FDA approved the first COVID-19 vaccine known as Pfizer-BioNTech COVID-19 Vaccine (Pfizer vaccine), for the prevention of COVID-19 in individuals 16 years of age and older; and

WHEREAS, as of August 23, 2021, the Pfizer vaccine also continued to be available under an EUA, including for individuals 12 through 15 years of age and for the administration of a third dose in certain immunocompromised individuals; and

WHEREAS, on August 23, 2021, Governor Murphy issued Executive Order No. 253 , setting forth mandatory requirements related to vaccination and testing for all Preschool to Grade 12 school personnel; and

WHEREAS, on August 23, 2021, Governor Murphy announced mandatory requirements related to vaccination and testing for state workers; and

WHEREAS, on September 20, 2021, Governor Murphy issued Executive Order No. 264, setting forth mandatory requirements related to vaccination and testing for child care personnel; and

WHEREAS, on September 22, 2021, the FDA amended the EUA for the Pfizer Vaccine to allow for use of a single booster dose, to be administered at least six months after completion of the primary vaccination series in: individuals 65 years of age and older; individuals 18 through 64 years of age at high risk of severe COVID-19; and individuals 18 through 64 years of age whose frequent institutional or occupational exposure to SARS-CoV-2 puts them at high risk of serious complications of COVID-19, including severe COVID-19; and

WHEREAS, on September 24, 2021, the Director of the CDC recommended that people aged 65 and older, residents in long-term care settings and people aged 40-64 with underlying medical conditions specified by the CDC should receive a booster shot of the Pfizer Vaccine, and people aged 18-48 either with underlying medical conditions specified by the CDC or at increased risk for COVID-19 exposure and transmission because of occupational or institutional setting, may receive a booster shot of the Pfizer Vaccine; and

WHEREAS, the existing network of available testing and vaccination sites throughout New Jersey may not be adequate to accommodate the anticipated uptick of COVID-19 vaccinations and testing occasioned by employment-related mandates, as well as administration of third or booster doses; and

WHEREAS, vulnerable individuals residing in certain counties and areas within the State may not have ready access to the COVID-19 booster, thereby endangering their health and safety; and

WHEREAS, P.L. 2021, c. 103 specifically authorizes the Commissioner of Health to take action to ensure that COVID-19 vaccines are available for distribution and administration to comply with any applicable recommendations of the CDC to prevent or limit the transmission of COVID-19, including in specific setting; and

WHEREAS, this Directive is related to vaccination distribution, administration, and management; COVID-19 testing; health resources and personnel allocation; and implementation of any applicable recommendations of the CDC to prevent or limit the transmission of COVID-19, and is thus consistent with P.L.2021, c.103.

NOW, THEREFORE, I, JUDITH PERSICILLI, Commissioner of the Department of Health, hereby order and direct the following:

1. The recitals above are incorporated as if set forth at length herein.
2. The Department shall be authorized to procure, through lease, license, or other means, sites throughout the State of New Jersey to administer COVID-19 vaccinations and/or provide COVID-19 testing on the same terms and conditions provided in the EHPA, specifically, N.J.S.A. 26:13-9 and 13-19.

This Order shall take effect immediately. The provisions of this Directive shall remain in force and effect in accordance with P.L.2021, c.103, unless otherwise modified, supplemented and/or rescinded.



September 30, 2021

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