

COVID-19 Healthcare Law Update: NJ Governor Phil Murphy Issues Executive Order 109; Effective Friday, March 27, 2020

Client Alert

3.25.20

In following the guidance of the Centers for Medicare and Medicaid Services and the recommendation of the U.S. Surgeon General, New Jersey Governor Phil Murphy has issued Executive Order 109, which orders that all adult elective medical and dental surgeries and all adult invasive procedures be suspended as of Friday, March 27, 2020 at 5:00pm.

An elective surgery or invasive procedure is defined by this Order as a procedure that can be delayed without undue risk to the current or future health of the patient as determined by the patient's treating physician or dentist. For purposes of this Order, family planning services, including the termination of a pregnancy, is not considered an elective surgery or procedure.

This temporary suspension of elective surgeries is twofold. First, it allows for resources such as medical personnel, supplies, and beds to be allocated to those suffering from COVID-19. Second, it reduces the potential exposure of healthy patients to patients being treated for COVID-19.

Additionally, Executive Order 109 states that hospitals and ambulatory surgery centers will be required to formulate a plan to delineate "essential" from "non-essential" surgeries and procedures, and that such plan must be provided to the New Jersey Department of Health.

Governor Murphy further ordered that any business or non-hospital healthcare facility (i.e., dental practices, construction facilities, office-based healthcare or veterinary practices) that are in possession of PPE, ventilators, respirators, or anesthesia machines, must undertake an inventory of such supplies and send that information to the State no later than Friday, March 27 at 5:00pm. The State has posted the following guidance as to how and where non-hospital healthcare facilities and others can report the required inventories:

<https://faq.business.nj.gov/en/articles/3836452-how-do-i-comply-with-executive-order-no-109-on-reporting-my-inventory-of-personal-protective-equipment>

Lastly, Governor Murphy used Executive Order 109 as a reminder that the Director of the Division of Consumer Affairs, in consultation with the Commissioner of the Department of Health, may waive the restriction of entry or

reentry into practice of any person who has received health care training or has retired.