



**ORDER OF THE HEALTH OFFICER OF THE COUNTY OF CONTRA COSTA
REQUIRING CERTAIN HEALTHCARE FACILITIES WITHIN THE COUNTY TO
OFFER MEDICALLY NECESSARY COVID-19 DIAGNOSTIC TESTING**

No. HO-COVID19-31

DATE OF ORDER: SEPTEMBER 24, 2020

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. **Intent of Order.** The intent of this Order is to increase access to diagnostic testing for Coronavirus Disease 2019 (“COVID-19”) in Contra Costa County (“County”).
2. **Basis of Order.** This Order is issued based on the need for increased testing to detect COVID-19 within the County. Due to the outbreak of the COVID-19 virus in the general public, which was declared in March 2020 to be a pandemic, there is a public health emergency throughout the County. Adequate diagnostic testing is essential to detect both symptomatic and asymptomatic transmission of the virus that causes COVID-19 in order to identify cases and isolate them, thereby slowing the spread of the disease as much as possible and preventing the healthcare system from being overwhelmed. This Order also is issued in light of 16,238 reported cases of COVID-19 in the County, including 204 deaths, as of 7:00 a.m. on September 24, 2020, including a significant number of suspected cases of community transmission, a significant number of undetected cases, and likely further ongoing transmission.
3. **Definitions.**
 - a. “Diagnostic Testing” means the administration of testing using in vitro diagnostic products (as defined in section 809.3 of title 21 of the Code of Federal Regulations) for the detection of SARS-CoV-2 or diagnosis of the virus that causes COVID-19, if the test meets all of the requirements set forth in section 1300.67.01, subdivision (b)(4)(A)-(D), of title 28 of the California Code of Regulations.
 - b. “Healthcare Facility” means any of the following that is located in the County, together with the entity or entities that own or operate the Healthcare Facility:



- (1) A clinic or urgent care facility that is owned, directly or indirectly, by an entity that owns or operates an acute care hospital;
 - (2) An acute care hospital;
 - (3) A medical practice or medical group that provides healthcare and includes more than 100 licensed healthcare professionals; and
 - (4) A clinic or other facility that provides healthcare, administers Diagnostic Testing, and operates a clinical laboratory in accordance with the Clinical Laboratory Improvement Amendments of section 253 of the Public Health Service Act. (42 U.S.C. § 263a.)
- c. “Essential Worker” shall have the meaning set forth in Section 1300.67.01, subdivision (b)(5), of title 28 of the California Code of Regulations.
 - d. “COVID-19 Symptoms” mean symptoms consistent with COVID-19, including, but not limited to, cough, shortness of breath, difficulty breathing, fever (measured or subjective), chills, rigors, myalgia, headache, sore throat, and loss of smell or taste.

4. Testing Requirements.

- a. Commencing no later than October 8, 2020, except as otherwise set forth in subsection 4.b. of this Order, a Healthcare Facility shall provide Diagnostic Testing to a patient of the Healthcare Facility who seeks Diagnostic Testing or other care, consents to the administration of Diagnostic Testing, and is in at least one of the following categories of persons:
 - (1) A person who is an Essential Worker.
 - (2) A person for whom the person’s treating physician has determined that Diagnostic Testing is medically necessary. Subject to the determination of the treating physician, Diagnostic Testing is generally indicated in any of the following circumstances:
 - (a) The person has any COVID-19 Symptoms;
 - (b) The person reports that he or she was a close contact of a confirmed case of COVID-19 within 2 to 14 days prior to presenting for care or testing; or
 - (c) The person has been identified by Contra Costa Health Services as needing priority testing or is responding to a public health recommendation to be tested as part of an ongoing contact investigation.
- b. Notwithstanding anything in this Order to the contrary, a Healthcare Facility has no obligation under this Order to provide to a patient Diagnostic Testing that is not covered



under a health care service plan, unless the Healthcare Facility is otherwise compensated for the cost.

- c. Diagnostic Testing that is required under Section 4.a. of this Order may be administered at the Healthcare Facility, a specified clinic or testing center operated by the Healthcare Facility, or a facility operated by a testing provider that contracts with the Healthcare Facility to provide Diagnostic Testing.
 - d. Diagnostic Testing that is required under Section 4.a. of this Order must be provided to the patient at the time he or she presents for care or at a timely appointment with the testing provider, except as set forth herein. Appointments must be scheduled within the applicable timeframe for urgent care set forth in section 1300.67.2.2, subdivision (c)(5) of title 28 of the California Code of Regulations. Medically necessary Diagnostic Testing must be provided to a consenting patient described in subsection 4.a.(2)(a) or subsection 4.a.(2)(b) of this Order within one hour after the patient has presented for care or testing. Diagnostic Testing of Essential Workers who are not also described in subsection 4.a.(2) may be restricted to once every seven days.
 - e. A Healthcare Facility may not require patients who identify themselves as Essential Workers to speak to or obtain approval from a medical professional prior to scheduling an appointment to receive Diagnostic Testing.
5. **Access.** Healthcare Facilities shall employ reasonable measures to ensure that patients who meet the testing criteria set forth in subsections 4.a.(1) or 4.a.(2) of this Order are informed of those criteria and can arrange for and obtain Diagnostic Testing in a timely manner.
 6. **Discretionary Testing Encouraged.** Nothing in this Order prohibits a Healthcare Facility from also offering COVID-19 testing to other categories of persons at its own discretion. Healthcare Facilities and are strongly urged to expand COVID-19 testing to the greatest extent possible, and to implement the recommendations and guidance from the Health Officer regarding broader testing of individuals for COVID-19.
 7. **Incorporation of Emergency Proclamations.** This Order is issued in accordance with, and incorporates by reference, the March 4, 2020, Proclamation of a State of Emergency issued by Governor Gavin Newsom and the March 10, 2020, Proclamation by the Contra Costa County Board of Supervisors declaring the existence of a local emergency.
 8. **Effective Date and Time.** This Order shall become effective at 12:01 a.m. on September 25, 2020, and will continue to be in effect until it is extended, rescinded, superseded, or amended in writing by the Health Officer.
 9. **Copies; Contact Information.** Copies of this Order shall promptly be: (1) made available at the Office of the Director of Contra Costa Health Services, 1220 Morello Avenue, Suite 200, Martinez, California, 94553; (2) posted on the Contra Costa Health Services website (www.cchealth.org); and (3) provided to any member of the public requesting a copy of this



Order. Questions or comments regarding this Order, and reports of possible non-compliance, may be directed to Contra Costa Health Services at (844) 729-8410.

10. Enforcement. Violation of this Order is a misdemeanor punishable by fine, imprisonment or both (Cal. Health & Saf. Code, § 120295) and subject to an administrative fine under Contra Costa County Ordinance No. 2020-21.

11. Severability. 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 persons 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:



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

Dated: September 24, 2020

