

## New Jersey Wants You to Return to Your Doctor's Office

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*Healthcare Alert*

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Reports of patients forgoing healthcare due to fears of contracting the coronavirus, and the potential severe health consequences that might arise from doing so, have prompted New Jersey to implement standards for the safe provision of in-person, office-based healthcare. On May 18, 2020, the New Jersey Department of Law and Public Safety, Division of Consumer Affairs issued Administrative Order No. 2020-07 (the Order) which details the safeguards that healthcare offices must immediately implement to increase patient access to healthcare, while still limiting provider and patient exposure to COVID-19. The Order expires concurrent with the end of the state of emergency or the public health emergency, whichever is later.

The Order provides all healthcare professionals (physicians, nurses, dentists, eye care professionals, chiropractors, physical therapists, etc.) authority to provide in-person adult and pediatric medically necessary or therapeutic services in an office, if the policies within the Order are adopted and complied with. "Medically necessary or therapeutic services" are those that the healthcare professional determines are necessary to treat, restore, or improve a patient's health and would otherwise create an adverse medical outcome if delayed. The term "office" includes, but is not limited to, private practices, clinics, urgent care centers and community medical centers.

The five categories of policies within the Order address (1) avoiding person-to-person contact in the office; (2) facilitating social distancing within the office; (3) adopting enhanced office cleaning and disinfection; (4) establishing rigorous protections for staff; and (5) staying informed about developments and obligations and informing patients of the same.

### **Avoid person-to-person contact**

Offices must call patients seeking in-person appointments in advance to gather information necessary to safely prioritize and schedule care. Specifically, the call must determine if an in-person appointment is necessary, the patient's current health status, whether the patient has been exposed to COVID-19, has symptoms of the virus, or has tested positive and, if so, the length of time since the patient has exhibited symptoms or tested positive. The patient must also be advised of the mandatory face-covering policy within the office. Based upon the information gathered in this call, the office must (1) prioritize services that, if delayed, would have adverse effects for the patient; (2) assess which patients are most at-risk for complications from delayed care; (3) schedule patients with increased susceptibility to infection when the office will have the least number of occupants and not when patients with known COVID-19 exposure or symptoms are in the office; and (4) schedule patients with known COVID-19 exposure or symptoms for the end of the day or in a dedicated room. Appointments must be spaced to minimize patient-to-patient contact and the number of people in the office and, to the extent feasible, patients should remain in their car or outside until ready to be seen. Upon arrival, all patients, regardless of the symptoms exhibited, must have their temperatures checked. Telemedicine must be used to the greatest extent possible to treat, order tests, triage patients and to perform follow-up care.

### **Facilitate social distancing**

Offices must install physical barriers, rearrange workspaces and maintain six feet or more distance between patients and staff wherever possible. Those patients exhibiting symptoms of respiratory illness must be placed in a separate area or designated room immediately upon arrival. Adult patient companions are not permitted in the office, unless medically necessary for mobility or communication, and, if permitted, must be assessed in the same manner as patients and wear a cloth face cover. Offices must

implement contactless patient registration and payment options and disinfect pens and credit cards after each use. Staff must avoid sharing all equipment and supplies but if they must do so, disinfect frequently.

## Enhanced office cleaning and disinfection

Office cleaning both before, during, and after appointment hours must be enhanced. Sufficient time must be allocated between appointments in order to allow for spaces and items to be disinfected. High-touch areas, including restroom facilities, countertops, door knobs and water fountains, must be disinfected routinely and after each use per Centers for Disease Control and Prevention (CDC) guidelines. All waiting area materials, including books and toys, must be removed. Staff must be given ample time for repeat hand washing with non-antimicrobial soap and water, alcohol-based hand rub with at least 60-95% alcohol, or antiseptic hand wash.

## Rigorous staff protections

Offices must accommodate and implement telework and work-from-home arrangements as much as possible. All staff must have their temperature checked upon arrival and go home if their temperature is over 100 degrees. Cloth face covers must be worn within the office, unless doing so would inhibit a person's health. Clinical staff must wear personal protective equipment (PPE) in compliance with CDC guidelines and be trained about proper techniques for applying and removing PPE, as well as disposing and cleaning it. Staff schedules must be staggered or rotations must be implemented in order to reduce the number of people in the office. Those staff members with heightened susceptibility to infections must be scheduled when there are the least number of people in the office.

## Staying informed and sharing guidance

Offices must stay informed about developments and obligations by reviewing the CDC website, New Jersey Department of Health website, Occupational Safety and Health Administration (OSHA) directives, and professional boards. Offices must maintain a log of patients treated in-person to facilitate contact tracing and comply with Department of Health or local boards, if necessary. All COVID-19 cases and exposures consistent with board rules must be reported. A plan must be developed in order to respond to potential surges of COVID-19 cases.

Offices with healthcare professionals such as dentists, oral surgeons, pulmonologists, otolaryngologists and eye care professionals providing care that requires direct contact with the patient's face, eyes, or mouth must adopt and comply with additional policies to those above. If a patient is COVID-19 positive or symptomatic, any elective surgery or procedure or routine dental or eye care, must be delayed at least 10 days after the patient first experienced symptoms and at least 72 hours must have passed since recovery (resolution of a fever, without requiring medication). Any elective surgery or procedure for asymptomatic patients must be postponed, if it is medically safe to do so. Patients who are at-risk of contracting infections must be provided with information detailing the risks of proceeding with any elective surgery, invasive procedure<sup>[1]</sup>, or routine dental or eye care. PPE must be worn, including N95 masks, gloves, fluid resistant gowns, hair covers, and eye protection with solid side shields or face shields. Additional infection control measures must be implemented, including the disinfecting of all surfaces between patients. Dental professionals must use high volume evacuators and isolation strategies including rubber dams when appropriate to limit exposure to aerosols. Eye care providers must use a slit lamp "breath" shield/barrier.

Please refer to the Order for more details.

If you have questions or would like additional information, please contact Michael W. Horner ([hornerm@whiteandwilliams.com](mailto:hornerm@whiteandwilliams.com); 856.317.3658), Susan J. Zingone ([zingones@whiteandwilliams.com](mailto:zingones@whiteandwilliams.com); 856.317.3650) or another member of the Healthcare Group.

As we continue to monitor COVID-19, White and Williams lawyers are working collaboratively to stay current on developments and counsel clients through the various legal and business issues that may arise across a variety of sectors. Read all of the updates here.

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[1] Executive Order 145 on May 15, 2020 rescinded the suspension of elective surgery and invasive procedures imposed by Executive Order 109 effective at 5:00 a.m. on May 26, 2020.

This correspondence should not be construed as legal advice or legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only and you are urged to consult a lawyer concerning your own situation and legal questions.