

New Jersey Suspends All Elective Surgeries, Invasive Procedures in Response to COVID-19

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Governor Phil Murphy has signed [Executive Order No. 109](#) to require that all non-essential adult elective surgeries and invasive procedures, whether medical or dental, be suspended effective as of 5:00 p.m. on March 27, 2020. The intent behind EO 109 is to assist in the preservation of vital healthcare resources during the coronavirus (COVID-19) pandemic.

All elective surgeries and invasive procedures already scheduled for a date beyond March 27, 2020, are to be canceled or postponed indefinitely. Patients and providers are to be notified immediately as to the cancellation or postponement of elective surgeries or invasive procedures.

Definition of Elective; Exception

EO 109 defines an “elective” surgery or invasive procedure as one 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.

Although the definition does not include the administration of vaccines, it may affect employment screenings that puncture the skin and, thereby, potentially affect labs throughout the state.

Excepted from EO 109’s coverage, however, is access to family planning services, such as termination of pregnancies, even if the services would be provided in hospitals, ambulatory surgery center, physician office, or other locations.

Special Procedures for Providers

Providers planning or deciding whether to perform surgeries or invasive procedures in their office are instructed to consider the potential for post-surgery complications, which would place additional stress on local hospitals.

Therefore, providers, to the extent they deem surgeries or procedures to be necessary, are required to first coordinate any possible post-surgery admissions with local hospitals *before* performing any surgery or invasive procedure.

Further, hospitals and ambulatory surgery centers must establish written guidelines which include the process of consultation with providers about whether surgeries or procedures are properly designated under the terms of EO 109. A copy of those guidelines must be submitted to the Department of Health.

Personal Protective Equipment Inventory

EO 109 requires all business or non-hospital care facilities (including dental facilities, construction facilities, research facilities, office-based healthcare or veterinary practices, and institutions of higher learning) in possession of Personal Protective Equipment, ventilators, respirators, or anesthesia machines, unless required for providing critical healthcare services, to submit an inventory of such supplies to the state no later than 5:00

p.m. on March 27, 2020. The Office of Emergency Management will establish the process for submission of this information.

The EO also authorizes the Director of the Division of Consumer Affairs, in conjunction with the Commissioner of the Department of Health, to:

1. Issue orders restricting or expanding the scope of practice for any healthcare professional or veterinarian licensed by a board in the Division of Consumer Affairs; and
2. Waive any restrictions on the entry or reentry into practice by any person who has received training as a healthcare professional or who has retired from practice.

Violations

Those who fail to comply with EO 109 could face penalties under, among other statutes, N.J.S.A. App. A:9-49 and -50, which could result in a conviction of a disorderly persons offense, a term of imprisonment of up to six months, and a fine of up to \$1,000.

For more guidance, please contact a Jackson Lewis attorney or the dedicated [COVID-19 Task Force](#).

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