



**SOUTH CAROLINA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**

**PUBLIC HEALTH ORDER
No. COVID-19-5**

WHEREAS, on March 13, 2020, Governor Henry McMaster declared a State of Emergency based on a determination that Coronavirus Disease 2019 (COVID-19) posed an actual or imminent public health emergency for the State of South Carolina; and

WHEREAS, on March 13, 2020, the Governor also directed the South Carolina Department of Health and Environmental Control (DHEC) to utilize and exercise any and all emergency powers, as set forth in the Emergency Health Powers Act, codified as amended in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency. In accordance with Section 44-4-500 of the South Carolina Code of Laws, as amended, the Governor ordered that DHEC shall “use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment;” and

WHEREAS, on March 13, 2020, the President of the United States declared the ongoing COVID-19 outbreak a pandemic of sufficient severity and magnitude to warrant an emergency declaration for all states, tribes, territories, and the District of Columbia, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. §§ 5121-5207 (“Stafford Act”); and

WHEREAS, on March 24, 2020, the Governor requested that the President of the United States declare that a major disaster exists in the State of South Carolina pursuant to Section 401 of the Stafford Act; and

WHEREAS, on March 27, 2020, the President of the United States granted the Governor's request and declared that a major disaster exists in the State of South Carolina and ordered federal assistance to supplement state, tribal, and local recovery efforts in the areas affected by the COVID-19 pandemic, with an effective date retroactive to January 20, 2020, and continuing; and

WHEREAS, since declaring an initial State of Emergency on March 13, 2020, the Governor has subsequently declared a State of Emergency and directed DHEC to utilize and exercise any and all emergency powers, as set forth in the Executive Health Powers Act, codified in Title 44, Chapter 4 of the South Carolina Code of Laws, deemed necessary to promptly and effectively address the current public health emergency, in Executive Order Nos. 2020-15, 2020-23, 2020-29, 2020-35, 2020-38, 2020-40, 2020-42, 2020-44, 2020-48, 2020-53, 2020-56, 2020-59, and 2020-62; and

WHEREAS, as of October 7, 2020, COVID-19 is widespread throughout the state and in all 46 counties, with 148,334 total confirmed cases statewide and 3,300 total confirmed deaths; and

WHEREAS, DHEC is invested with all the rights and charged with all the duties pertaining to organizations of like character and is the sole advisor of the State in all questions involving the protection of the public health within its limits (S.C. Code Ann. § 44-1-110); and

WHEREAS, DHEC must enforce or prescribe preventive measures as may be needed to suppress or prevent the spread of these diseases by proper quarantine or other measures of prevention, as may be necessary to protect citizens of the State (S.C. Code Ann. § 44-1-80(A)); and

WHEREAS, DHEC is granted the authority to make, adopt, promulgate and enforce reasonable rules and regulations from time to time requiring and providing for the thorough investigation and study of the causes of all diseases, epidemic and otherwise, in the State, the means for the prevention of contagious disease and the publication and distribution of such information as may contribute to the preservation of the public health and the prevention of disease (S.C. Code Ann. § 44-1-140(12)); and

WHEREAS, DHEC may also make separate orders and rules to meet any emergency not provided for by general rules and regulations, for the purpose of suppressing nuisances dangerous to the public health and communicable, contagious and infectious diseases and other danger to the public life and health (S.C. Code Ann. § 44-1-140); and

WHEREAS, in addition to its authority provided by statute or as otherwise provided for by regulation, DHEC may issue separate orders to enforce the provisions of S.C. Regulation 61-20 for the purpose of suppressing nuisances, Communicable, Contagious and Infectious Diseases, and other dangers to public health (S.C. Code Ann. Regs. 61-20 § 14(A)); and

WHEREAS, all entities shall comply with DHEC directives and orders to protect the public health from the spread of Communicable and Infectious Diseases (S.C. Code Ann. Regs. 61-20 § 4(D)); and

WHEREAS, during a public health emergency, DHEC must use every available means to prevent the transmission of infectious disease and ensure that all cases of infectious disease are subject to proper control and treatment (S.C. Code Ann. § 44-4-500); and

WHEREAS, the Bill of Rights for Residents of Long-Term Care Facilities requires the legal guardian, family members, and other relatives of each resident of a long-term care facility

be allowed immediate access to that resident, subject to the resident's right to deny access or withdraw consent to access at any time, and requires each resident, without unreasonable delay or restrictions, be allowed to associate and communicate privately with persons of the resident's choice (S.C. Code Ann. § 44-81-40(K)); and

WHEREAS, nursing homes and community residential care facilities are required to comply with the Bill of Rights for Residents of Long-Term Care Facilities (S.C. Code Ann. Regs. 61-17, § 1101; S.C. Code Ann. Regs. 61-84 § 1001), and

WHEREAS, nursing homes shall encourage visitation of residents by family and friends with minimum restrictions and shall post visiting hours in accordance with facility policies and procedures (S.C. Code Ann. Regs. § 1003.J), and

WHEREAS, South Carolina is engaged in an all-hands effort to both reduce the spread of COVID-19 and to ensure safety of all South Carolinians, including residents of nursing homes and community residential care facilities; and

WHEREAS, the COVID-19 pandemic has created a need for nursing homes and community residential care facilities to prevent the spread of disease among residents and staff, and

WHEREAS, nursing homes and community residential care facilities are required by South Carolina law and regulation to allow for access to residents; however, the current State of Emergency requires changes and limitations to normal visitation policies and procedures in order to ensure residents, which are members of a vulnerable population, are protected from exposure to COVID-19; and

WHEREAS, as the Acting Director of Public Health, I have reviewed the data regarding confirmed COVID-19 cases, reported exposures among the population in South Carolina, including cases and reported exposures in vulnerable populations including residents of nursing homes and community residential care facilities, and

WHEREAS, I have determined that it is necessary to gather and monitor information regarding access to visitation for residents in nursing homes and community residential care facilities in order to ensure the safety of residents and staff and appropriate and reasonable compliance with applicable laws and regulations.

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to section 44-1-140 of the South Carolina Code of Laws, that all nursing homes and community residential care facilities licensed by DHEC are required to submit a weekly report stating whether they are allowing

visitation, and if not, providing the reason(s) for not allowing visitation. Facilities must also report the number of residents who participated in a visit in the previous seven (7) days.

Each licensed Facility must submit a separate report to DHEC.


Facilities must complete their weekly report no later than 5:00 PM each Monday by completing and submitting the form on DHEC's webpage, <https://scdhec.gov/visitation>.

Should any nursing home or community residential care facility face human resource or information technology challenges in completing any requirement of this Order, the facility should notify DHEC immediately by contacting ACC-HealthReg@dhec.sc.gov.

IT IS FURTHER ORDERED, pursuant to section 44-1-150 of the South Carolina Code of Laws, that any facility that violates this Order may be subject to a civil penalty not to exceed one thousand (1,000) dollars a day for each violation.

This Order is effective immediately and shall remain in effect unless otherwise modified, amended, or rescinded by subsequent order.

AND IT IS SO ORDERED.



L. Brannon Traxler, MD, MPH
Interim Director of Public Health

Date: 10/07/2020