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New Jersey Suspends “Elective” Surgeries as of Friday Night, March 27, 2020

On March 23, 2020, New Jersey Governor Phil Murphy signed [Executive Order 109](#) ordering that all elective surgeries performed on adults be suspended in the state after 5:00 p.m. on Friday, March 27 in light of the COVID-19 pandemic. This Executive Order applies to all medical and dental elective procedures. “Elective” is defined in the Executive Order as any surgery or invasive 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. An elective surgery or invasive procedure does not include the administration of vaccines. The Executive Order specifically states that it shall not be interpreted in any way to limit access to family planning services, including the termination of pregnancies.

The Executive Order requires that New Jersey physicians and dentists who are planning to perform surgery or invasive procedures in their offices must consider the potential burden of post-surgery complications on local hospitals prior to performing any operation. In addition, any business, non-hospital health care facility, or institution of higher learning that has possession of personal protective equipment (PPE), ventilators, respirators, or anesthesia machines that are not required for the provision of critical health care services must undertake an inventory of these supplies and send that information to the State by 5:00 pm on Friday, March 27. The New Jersey Office of Emergency Management is establishing a process for businesses, facilities, and institutions to submit this information. Moreover, hospitals and ambulatory surgery centers in New Jersey are required to establish written guidelines and provide the same to the New Jersey Department of Health.

Health care providers and dentists who perform elective procedures must abide by this Executive Order. Per the Executive Order, they are to cancel or postpone indefinitely these procedures that are already scheduled for after 5:00 p.m. on March 27. Other parties listed in the Executive Order must ensure they comply with submitting their equipment inventory immediately.

COVID-19 is an unprecedented event affecting the entire health care delivery system. Governor Murphy’s Executive Order seeks to ensure medically necessary health care services continue to be available in New Jersey and attempts to safeguard providers, patients and health care staff during this pandemic.

Saul Ewing Arnstein & Lehr attorneys regularly counsel providers in regulatory compliance matters. Please feel free to contact the authors if you have questions about this executive order and how this order will impact your company or institution.

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