

STATE OF NEW JERSEY

DEPARTMENT OF HEALTH

NOTICE OF RULE WAIVER/MODIFICATION

PURSUANT TO EXECUTIVE ORDER NO. 103 (MURPHY) (MARCH 9, 2020)

AND EXECUTIVE ORDER NO. 119 (MURPHY) (APRIL 7, 2020)

COVID-19 STATE OF EMERGENCY

Temporary Rule **WAIVER/MODIFICATION OF N.J.A.C. 8:40 – MOBILITY ASSISTANCE VEHICLE (MAV) AND BASIC LIFE SUPPORT (BLS) AMBULANCE SERVICES**, adopted by the **DEPARTMENT OF HEALTH**

Date: **May 20, 2020**

Authority: N.J.S.A. App.A:9-45 & App. A:9-47; Executive Order No. 103 (Murphy)(“EO 103”); Executive Order No. 119 (Murphy)(“EO 119”)

Effective Date: **May 20, 2020**

Expiration Date: Concurrent with the end of the Public Health Emergency

This is an emergency adoption of a temporary rule waiver/modification of N.J.A.C. 8:40-1.2 which governs Mobility Assistance Vehicle and Basic Life Support Ambulance Services. Section 6 of EO 103 issued in response to the COVID-19 pandemic, authorizes agency heads to waive/suspend/modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the emergency, notwithstanding the provisions of the Administrative Procedure Act or any law to the contrary. This authority was extended by EO 119. Pursuant to this authority, and with the approval of the Governor and in consultation with the State Director of Emergency Management, the Commissioner of the Department of Health is modifying its rules as follows:

COVID-19 is a contagious, and at times fatal, respiratory disease that is responsible for the 2019 novel coronavirus outbreak. The Centers for Disease Control and Prevention (CDC) expects that additional cases of COVID-19 will be identified in the coming days, including more cases in the United States, and that person-to-person spread is likely to continue to occur. As of May 20, 2020, there were at least 150,399 positive cases of COVID-19 in New Jersey, with at least 10,747 of those cases having resulted in death.

The rapid and far-reaching spread of COVID-19 throughout the State has resulted in an extremely high number of individuals developing symptoms of this respiratory disease. While COVID-19 can be serious and even fatal in some cases, for most individuals, symptoms are often mild to moderate and non-life threatening. Consistent with current available medical advice,

many of these non-critical patients are being evaluated by a medical professional and advised to complete their recovery at home. However, if a COVID-19 positive patient who is recovering at home becomes increasingly ill, infirm or otherwise disabled, he or she may utilize the non-emergency health care transportation services of a mobility assistance vehicle (MAV) or a basic life support (BLS) ambulance to obtain medical treatment. MAV and BLS services may also be utilized to transport a patient from a healthcare facility to their home or place of residence.

Additionally, COVID-19 positive patients who are asymptomatic or experiencing mild-symptoms may be unknowingly spreading the disease to other patients who have not been infected with COVID-19, including high risk patients such as the elderly and the immunocompromised. A patient can contract the COVID-19 virus by inhaling respiratory droplets, touching a surface or object that has the virus on it and then touching their own mouth, nose, or eyes. For this reason, all health care providers and medical transportation agencies should assume that every patient is potentially infected.

In order to flatten the curve, minimize patient, crewmember, and health care provider exposure, disease transmission, workforce absenteeism, and surges of patients seeking medical care, it is necessary to modify N.J.A.C. 8:40-1.2 to require:

1. All MAV and BLS crewmembers must wear personal protective equipment (PPE) in accordance with CDC and Department of Health recommendations, as set forth in the Department of Health's Health and Safety Summary for EMS First Responders during the COVID-19 Pandemic Response, before and during the transportation of any patient. This includes, at a minimum:
 - a. A N95 or equivalent mask approved by the CDC/NIOSH;
 - b. Eye protection;
 - c. Gloves; and
 - d. Isolation gowns (for known or suspected positive COVID-19 patients).
2. The mobility assistance vehicle operators (MAVO) and/or Emergency Medical Technicians (EMT) shall place a face covering/mask over every patient's nose and mouth prior to each transfer.
3. The MAVO and/or EMT shall document in the patient's chart the PPE and decontamination procedures utilized for each patient transfer.
4. MAV and BLS agencies shall provide EMTs and MAVOs with specific education and training on preventing transmission of infectious agents and decontamination procedures.
5. MAV and BLS agencies shall develop, educate, and implement infection control

policies and procedures consistent with the recommendations published by the CDC and the Department of Health, which are set forth in the Department of Health's Health and Safety Summary for EMS First Responders during the COVID-19 Pandemic Response.

6. All MAVOs and EMTS shall practice and demonstrate competency in the prevention of disease transmission and proper donning and doffing of PPE, prior to transporting a patient. Special attention should be given to the correct use of PPE and prevention of contamination of clothing, skin, and the environment during the process of donning and doffing PPE.
7. All MAV and BLS vehicles shall be decontaminated when starting a new shift and after every patient transfer.
8. BLS or MAV vehicles shall only transport one patient at any given time.

These modifications are needed in order to protect the public health, safety, and welfare by minimizing the potential for disease transmission, including to those who are at high risk.

Full Text of the affected regulations follows, with modifications and additional terms and conditions indicated in boldface:

SUBCHAPTER 1. AUTHORITY, SCOPE AND DEFINITIONS

8:40-1.2. Scope and purpose

- (a) These rules shall apply to any person, public or private institution, agency, entity, corporation, general hospital and/or business concern that operates, or seeks to operate, a non-volunteer mobility assistance vehicle or basic life support ambulance service within the State of New Jersey. These rules serve to define the operational requirements of these services, to provide for a uniform application of standards, and to specify the personnel, equipment, organization and other resources required to successfully operate such services.
- (b) N.J.A.C. 8:40-1 through 5 and 7 shall apply to MAV services.
- (c) N.J.A.C. 8:40-1 through 4, 6 and 7 shall apply to basic life support ambulance services.

(d) During the COVID-19 Public Health Emergency, the rules in N.J.A.C. 8:40 et seq. are hereby subject to the following modifications and additional terms and conditions:

- 1. All MAV and BLS crewmembers must wear personal protective equipment (PPE) in accordance with CDC and Department of Health recommendations, as set forth in the Department of Health's Health and Safety Summary for EMS First Responders during the COVID-19 Pandemic Response, before and during the transportation of any patient. This includes, at a minimum:**
 - a. A N95 or equivalent mask approved by the CDC/NIOSH;**
 - b. Eye protection;**
 - c. Gloves; and**
 - d. Isolation gowns (for known or suspected positive COVID-19 patients).**
- 2. The mobility assistance vehicle operator (MAVO) and/or Emergency Medical Technician EMT shall place a face covering/mask over every patient's nose and mouth prior to each transfer.**
- 3. The MAVO and/or EMT shall document in the patient's chart the PPE and decontamination procedures utilized for each patient transfer.**
- 4. MAV and BLS agencies shall provide EMTs and MAVOs with specific education and training on preventing transmission of infectious agents and decontamination procedures.**
- 5. MAV and BLS agencies shall develop, educate, and implement infection control policies and procedures consistent with the recommendations published by the CDC and the Department of Health, which are set forth in the Department of Health's Health and Safety Summary for EMS First Responders during the COVID-19 Pandemic Response.**
- 6. All MAVOs and EMTS shall practice and demonstrate competency in the prevention of disease transmission and proper donning and doffing of PPE, prior to transporting a patient. Special attention should be given to the correct use of PPE and prevention of contamination of clothing, skin, and the environment during the process of donning and doffing PPE.**
- 7. All MAV and BLS vehicles shall be decontaminated when starting a new shift and after every patient transfer.**
- 8. BLS or MAV vehicles shall only transport one patient at any given time.**

The Department's Health and Safety Summary for EMS First Responders during the COVID-19 Pandemic Response can be found at: <https://www.state.nj.us/health/ems/>

I find that the modifications of the rules above are necessary because enforcement of the existing rules would be detrimental to the public welfare during this emergency.

JUDITH M. PERSICHILLI, RN, BSN, MA
COMMISSIONER
DEPARTMENT OF HEALTH

5/20/2020
DATE

BY: Terry Clancy
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Acting Director
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WAIVER CONTROL NUMBER: 20 – N.J.A.C. 8:40 – 1.2 – 028.