ORDER OF THE HEALTH OFFICER

OF THE CITY AND COUNTY OF SAN FRANCISCO REQUIRING CERTAIN HEALTHCARE FACILITIES WITHIN THE CITY TO OFFER AND CONDUCT SARS-CoV-2 REQUIRED TESTING TO SYMPTOMATIC PERSONS, PERSONS WHO HAVE HAD CONTACT WITH CONFIRMED COVID-19 CASES, PERSONS WHO ARE AT HIGHER RISK OF EXPOSURE, AND CERTAIN ESSENTIAL WORKERS, AND DIRECTING OTHER HEALTHCARE PROVIDERS TO FOLLOW TESTING GUIDELINES ISSUED BY THE DEPARTMENT OF PUBLIC HEALTH

(PUBLIC HEALTH EMERGENCY ORDER)
DATE ORDER ISSUED: November 6, 2020

Please read this Order carefully. Violation of or failure to comply with this Order is a misdemeanor punishable by fine, imprisonment, or both. (California Health and Safety Code § 120295, et seq.; California Penal Code §§ 69, 148(a)(1); and San Francisco Administrative Code § 7.17(b).)

Summary: On February 25, 2020, the Mayor of the City and County of San Francisco (the “City”) declared a state of emergency to prepare for coronavirus disease 2019 (“COVID-19”). On March 5, 2020, the City had its first reported case of COVID-19 in the County. On March 16, 2020, the City and five other Bay Area counties and the City of Berkeley, working together, were the first in the State to implement shelter-in-place orders in a collective effort to reduce the impact of the virus that causes COVID-19, SARS-CoV-2. That virus is easily transmitted, especially indoors or in group settings, and the disease can be extremely serious. It can require long hospital stays, and in some instances cause long-term health consequences or death. It can impact not only those who are older or have underlying health conditions and known to be at high risk, but also other people, regardless of age. And a major risk remains in that the virus that causes COVID-19 can be spread by asymptomatic and pre-symptomatic carriers, people who can spread the disease but do not even know they are infected and contagious. The spread of disease is a global pandemic causing untold societal, social, and economic harm.

As of the date of this Order the United States of America is seeing a large increase in the number of new daily SARS-CoV-2 infections, including the highest number of infections nationally of any day since the start of the pandemic on multiple days in the past two weeks. For much of the past week, both the Bay Area and the City have also shown a daily increase in the 7-day average of the number of new reported cases. For these reasons, the City and the region remain vulnerable to a major surge in infections and hospitalizations this Fall and Winter and continue to take appropriate steps to respond, including cautiously allowing some sectors to reopen while maintaining restrictions on many activities. Certain business and other activities remain prohibited by the State Health Officer.

We are going to have to live with the threat of the virus for many months to come. And for us to be able to continue to resume business and other activities, as well as to protect our healthcare system from being overwhelmed, it is critical to maintain and properly utilize the diagnostic and
screening testing in the City for the virus. But as cases rise, testing availability has historically been strained and the turn-around time for testing results has increased. Maintaining adequate testing capacity and a quick return time for results is essential. For these reasons, it is imperative that testing occur in the best possible way during this crisis.

This Order has three key requirements.

First, it requires each Healthcare Facility, as that term is defined by the Order, in the City to conduct Required Testing for SARS-CoV-2 for certain key groups of patients and other populations with the intent of quickly identifying those who are most likely to have the virus and thereby are at highest risk of infecting others. By focusing on testing these people first, this Order helps not only provide appropriate care to those who are infected, including many who may not know it, but also supports the collective effort to protect everyone in the City by identifying outbreaks, informing policy making, and reducing the spread of the virus by helping isolate those who are infected before they can infect others. Subject to a few clarifications below, Required Testing must occur the same day as healthcare is provided or the next calendar day for anyone who: 1) has symptoms associated with SARS-CoV-2 infection; 2) is a close contact of someone who is a confirmed or likely carrier of the virus; 3) is identified by the Department of Public Health as needing priority testing; or 4) is a person with or without symptoms who is seeking testing for screening purposes where there is a State of California or City mandate for such screening testing (which for now includes workers in skilled nursing facilities and in primary or secondary education in the City). Only larger facilities or those with the ability to conduct tests are required to meet these testing requirements, including: hospitals; any facility, clinic, or office that is owned by an entity that owns an acute care hospital; large practice or “medical groups” that have more than 100 licensed healthcare professionals; and any clinic or facility that provides healthcare, conducts diagnostic testing for SARS-CoV-2, and has its own lab testing equipment that is operated under federal lab certification requirements or a waiver of those requirements. Healthcare Facilities that are unable to conduct testing within this timeframe must notify the Health Officer via email of the reasons for the delays in testing and what steps they are taking to address any delays. If required by the Department of Public Health (“DPH”), Healthcare Facilities are also required to submit to DPH a testing capacity survey that outlines information regarding testing access, policies, and protocols.

Second, such Healthcare Facilities must notify patients through websites or online patient portals, and also when feasible through signs in patient care areas, of the criteria for such testing, are reminded to follow state and federal laws regarding seeking reimbursement from patients for such testing, and are required to report test results as required by law. Healthcare Facilities must also reach out to all patients to provide information on how and where to get tested, that there is no co-pay for testing, and other listed information. If patients believe that Healthcare Facilities are not meeting their obligations under this Order, they can report concerns via 3-1-1 or www.sf.gov/report-health-order-violation.

Third, this Order attaches prioritization guidelines issued by the City’s Department of Public Health regarding diagnostic and screening testing for SARS-CoV-2 and directs all Healthcare Facilities and other providers of healthcare to follow those guidelines, subject to the specific clinical context of a given patient. All providers of healthcare are strongly encouraged, upon
patient request, to provide or order testing utilizing that testing prioritization. And each provider of healthcare is encouraged to order or provide Required Testing utilizing this testing prioritization whenever capacity allows, to take all reasonable steps to obtain necessary testing-related supplies, and to notify patients of the testing criteria and availability.

This Order goes into effect at 11:59 p.m. on November 13, 2020, replacing the prior issued version at that point. The Order will remain in effect, without a specific expiration date, for so long as the threat of the pandemic continues, or until this Order is otherwise extended, rescinded, superseded, or amended in writing by the Health Officer.

This Order was updated on November 6, 2020, to do the following:

1) Require Healthcare Facilities to conduct testing for any person, with or without symptoms, who is seeking testing where there is a State of California or City mandate for such screening testing (which for now includes workers in skilled nursing facilities and in primary or secondary education in the City);

2) Require only those Healthcare Facilities that receive a testing capacity survey from DPH to respond to that survey and provide any required follow-up information; and

3) For Healthcare Facilities covered by the Order, add additional requirements regarding proactive notification of patients of testing availability and processes.

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1. **Intent.** The intent of this Order is to ensure that patients have access to and receive Required Testing, as defined in Section 11 below, within the City and County of San Francisco (the “City”) in order to effectively prevent and control the spread of COVID-19 in our community. Expansion of Required Testing is essential because it helps identify people who have SARS-CoV-2 (the virus that causes COVID-19), ensures those persons receive appropriate care, protects vulnerable populations, contains the spread of COVID-19 through case investigation and contact tracing, facilitates better understanding of the spread of the disease in the City, ultimately prevents serious illness and death, and supports the return and ongoing operation of key essential services like skilled nursing facilities and primary and secondary education. As of the effective date and time of this Order set forth in Section 15 below, each Healthcare Facility as defined in Section 11, is required to follow the provisions of this Order. In addition, other providers of healthcare are directed to utilize the testing prioritization criteria described in Sections 2 and 4 below, subject to their professional clinical judgment, when collecting samples for or ordering Required Testing.

2. **Testing Advisory: Priorities for COVID-19 Testing.** Attached as Appendix A to this Order is a document titled “Health Advisory: Priorities for COVID-19 Diagnostic Testing” issued by the City’s Department of Public Health (“DPH”) and updated on August 11, 2020 (the “Testing Advisory”). The Testing Advisory outlines the priority for testing to be used in the City by all providers of healthcare who are authorized by law to order Required Testing, subject to their professional clinical judgment in each case. The Testing Advisory may be updated from time to time, and this Order automatically incorporates any future changes to the Testing Advisory without the need to update this Order. For that reason, each healthcare provider that is subject to this Order is directed to periodically check for updates to the Testing Advisory. The Testing Advisory is available online at [https://www.sfcdcp.org/testingadvisory](https://www.sfcdcp.org/testingadvisory).

3. **Testing Requirements for Healthcare Facilities.** Each Healthcare Facility in the City must provide Required Testing to each of the following categories of patients who seek care—whether in-person or by remote methods such as telephone, video
encounter, or electronic message—through the Healthcare Facility:

(a) Any Symptomatic Person, as defined in Section 11 below, regardless of age, hospitalization status, comorbidities, or other risk factors for COVID-19 (this category corresponds to the first bulleted item under Tier 1 and the first bulleted item under Tier 2 of the attached Testing Advisory);

(b) Any person who is referred to their provider for Required Testing by DPH, such as in relation to an outbreak (this category corresponds to the second bulleted item under Tier 1 of the Testing Advisory);

(c) Any person who is considered a close contact to a confirmed case of COVID-19 or SARS-CoV-2 infection—“close contact” is defined in the guidance available online at www.sfcdph.org/Home-Isolation-Quarantine-Guidelines (this category corresponds to the third bulleted item under Tier 2 of the Testing Advisory); and

(d) Any person who is seeking Required Testing for screening purposes where there is a State of California or City mandate for such screening testing, regardless of whether the person seeking testing has symptoms, which at the time of issuance of this Order includes the following:

   i. Facility Personnel (as defined by Health Officer Order No. C19-13, available online at www.sfdph.org/healthorders) at any skilled nursing facility (“SNF”) at least as frequently as required pursuant to Order No. C19-13, including as that order is amended or revised in the future (with the frequency required by DPH currently at one test every two weeks, which is subject to change as directed by DPH); and

   ii. School-Based Adults at any School (as those terms are defined by Health Officer Directive No. 2020-33b, available online at www.sfdph.org/directives) at least as frequently as required pursuant to Directive No. 2020-33b, including as that directive is amended or revised in the future (with the frequency required by DPH currently prior to returning to work onsite and then at one test every two months);

In addition to the mandatory testing listed above, each Healthcare Facility is encouraged to facilitate screening testing for all other categories of essential workers as outlined in the Testing Advisory to the extent feasible.

In relation to those people covered by Section 3(d), Required Testing must be performed on request at least as frequently as the timeframe listed next to each category of person.

For all Required Testing, especially any screening testing, each Healthcare Facility
is encouraged to provide access to the testing without the need for an in-person clinical visit whenever appropriate. By way of example, patients who qualify for Required Testing without symptoms could be scheduled for a test directly via website, telephone, or other mechanism without first requiring a telehealth visit or interaction with a provider via a patient portal for a provider’s referral.

By way of clarification, no Healthcare Facility is required by this Order to offer testing to someone in a non-emergency context when that person does not already have a relationship with the Healthcare Facility unless the office or clinic routinely accepts walk-in or new patients and the person seeking care fits the standard criteria for being seen by that office or clinic.

4. **High-Priority Testing Recommendations for Healthcare Facilities and Other Healthcare Providers.** Separate from any testing required by Section 3 of this Order, each Healthcare Facility in the City and all providers of healthcare in the City who are authorized by law to order Required Testing are strongly encouraged, upon patient request, to provide or order Required Testing utilizing the testing prioritization outlined in the Testing Advisory. Each such provider of healthcare should order or provide Required Testing whenever capacity allows and take all reasonable steps to obtain necessary testing-related supplies such as swabs. This Order does not require any individual healthcare provider that is not part of a Healthcare Facility to collect specimens for Required Testing.

5. **Testing Timeframes.** For any patient described in Section 3 above, the Healthcare Facility that is providing care to the patient must provide the Required Testing either on the same day the patient presents for care or the following calendar day. In the event a patient described in Section 3 presents for care via telehealth or other remote methods, the Healthcare Facility must conduct or otherwise cause to be provided a Required Test no later than the end of the calendar day following the remote visit. But in relation to any person listed in Section 3(d) above (for screening testing purposes only), the person must be tested by the Healthcare Facility (or provided access to a test) within seven days of presenting for or requesting the test.

For any Healthcare Facility-associated office or clinic that is not open seven days a week, this Section 5 does not require that testing be provided by that office or clinic on any day that the office or clinic is closed in relation to tests that are required to be provided by the next day. In such instances, the testing may be provided on the next business day so long as each of the following conditions is met: 1) the patient is given a time on the next business day when they can receive a test from the office or clinic or an affiliated facility; and 2) the patient is provided information on who to contact in the event of an emergency or if symptoms worsen before the test is performed. This Order recommends that each office or clinic that is not open seven days a week and that has other affiliated offices or clinics that are open on weekends or evenings accommodate testing for any patient on the next calendar day when possible if testing is required by this Order.

The Healthcare Facility providing Required Testing under this Section 5 must make
all reasonable efforts to conduct the testing within the listed timeframe, and if the context is such that routine testing of patients who are symptomatic, or are close contacts, cannot be completed within this timeframe, the Healthcare Facility, but not each individual provider, must within 48 hours notify the Health Officer via email (sent to dph.doc.ops.medical@sfdph.org with “Health Officer Order No. C19-15” in the subject) of the reasons for the delays in testing and what steps it has taken to resolve the delays.

6. **Compliance With Reimbursement Rules and Restrictions.** The billing and financial responsibilities of Healthcare Facilities are guided by their own arrangements or contracts with the insurance plan or payor they contract with (if any) and with the labs they use. This Order does not alter those arrangements or contracts. Where applicable, Healthcare Facilities should follow their standard practices regarding collection of any fees, costs, or charges incurred in ordering or completing Required Testing under this Order. When doing so, Healthcare Facilities must comply with all state and federal laws and regulations regarding billing and reimbursement for testing, including any laws or regulations prohibiting patients from being billed for fees, costs, or charges related to Required Testing.

7. **Patient Notification Requirements.** Healthcare Facilities must publicize information to patients through their standard communication channels and methods as to how patients can access Required Testing. Healthcare Facilities that have a public- or patient-facing website or other information portal must post information on that website or through that portal about how patients can access Required Testing from the Healthcare Facility. Each Healthcare Facility should also, when feasible, conspicuously post a notice detailing for patients the criteria to qualify for Required Testing in areas visible to all patients, such as in patient waiting areas and exam or treatment rooms, in order to ensure that patients understand when they are eligible for Required Testing.

Healthcare Facilities must also provide patients receiving Required Testing with information regarding best isolation or quarantine practices at the point and time of testing to ensure symptomatic individuals isolate until clinical interpretation of diagnostic results rules out COVID-19 and to ensure close contacts quarantine for 14 days regardless of diagnostic result. Information that may be used for this purpose, including a description of exceptions to this 14-day quarantine requirement and translated versions of the information, is available online at [www.sfcdcp.org/i&q](http://www.sfcdcp.org/i&q).

Healthcare Facilities must also send out a new notice to patients via its standard patient communication methods (patient portal, mail, email, and/or text message) advising patients of the following: the categories of people who are entitled to receive testing as listed in Section 3 above; how and where to be tested; that there are no co-pay requirements for Required Testing consistent with state and federal laws and rules; and provide other testing-related information including the times of testing operations, the required timeframes for scheduling tests (within 48 hours for
diagnostic testing or within 7 days for screening testing), and how to schedule a test. This new notice must be sent out no later than November 25, 2020.

Healthcare Facilities and all other providers of healthcare in the City are strongly encouraged to provide information and notices in the patient’s preferred language.

All other providers of healthcare in the City are strongly encouraged to follow these patient notification requirements in relation to Required Testing of patients.

8. No Limitation on Testing. Nothing in this Order prohibits a Healthcare Facility from also offering Required Testing to other categories of persons at its own discretion. Healthcare Facilities are strongly urged to expand Required Testing to the greatest extent possible and to implement the recommendations and guidance from DPH regarding broader testing of individuals for COVID-19 listed in the attached Testing Advisory.

9. Compliance With Reporting Requirements. Healthcare Facilities in the City must, as applicable, continue to comply with the reporting requirements regarding testing results set forth in Health Officer Order No. C19-10 or any subsequent Health Officer order, as well as any additional reporting required or requested by the Health Officer and any reporting required by state and federal law. The Health Officer Orders are available online at www.sfdph.org/healthorders.

10. Healthcare System Testing Capacity Survey. Each Healthcare Facility in the City that receives a Healthcare System Testing Capacity Survey from DPH under this Order must promptly complete and return the survey as directed by DPH. Such Healthcare Facility must also provide any information requested by DPH in relation to the survey and update its responses to the survey, or complete future surveys, as required by DPH.

11. Definitions: For the purposes of this Order, the following initially capitalized terms have the meanings given below:

(a) “Required Testing” means the use of Polymerase Chain Reaction (PCR) testing or other test as authorized by DPH to detect the presence of SARS-CoV-2 with the primary purpose of either individualized diagnosis or treatment or screening in certain populations. All processing of tests must be conducted by a lab that complies with Health Officer Order No. C19-10 (available online at www.sfdph.org/healthorders), including that the lab must meet the requirements to perform testing classified as high complexity under the Clinical Laboratory Improvement Amendments (“CLIA”) of Section 353 of the Public Health Service Act (including but not limited to having a CLIA waiver to perform such tests). Any lab that processes tests must also submit all results (not just positive results) via the State of California’s California Reportable Disease Information Exchange (“CalREDIE”) system or any replacement to that system adopted by the State of California.
(b) “Healthcare Facility” means any facility located in the City that provides healthcare and that is any of the following:

i. An acute care hospital, including but not limited to an emergency room, any inpatient units, and any on-site ambulatory care clinics;

ii. A clinic, office, or urgent care facility that is owned, directly or indirectly, by any entity (non-profit, religious, governmental, for-profit, or otherwise) that also owns and operates an acute care hospital, regardless of where that acute care hospital is located;

iii. Part of a practice or “medical group” of affiliated physicians and other healthcare providers where the overall group has at least 100 licensed healthcare providers (such as doctors, registered nurses, physicians assistants, or others), regardless of where those healthcare providers are located; or

iv. A clinic, office, or urgent care facility that provides healthcare and meets all of the following criteria: (A) it has staff trained to administer diagnostic tests to patients; (B) it administers Required Testing for SARS-CoV-2 to its patients or members of the public using tests authorized by the United States Food and Drug Administration for that purpose; and (C) it has its own lab with a certificate issued under the Clinical Laboratory Improvement Amendments (CLIA) or a CLIA waiver allowing it to process samples collected for Required Testing (Note that a facility that provides other diagnostic testing, such as for sexually transmitted infections, that does not offer SARS-CoV-2 testing is not a “Healthcare Facility” under this subsection iv and is not required to offer SARS-CoV-2 testing).

Note that any other clinic, office, or other care facility not already listed in subsections i through iv above that provides healthcare and that either (A) already administers diagnostic testing to patients and can be reimbursed for that testing under California regulations or (B) already orders diagnostic testing to be performed by another entity is strongly encouraged to offer Required Testing as outlined in this Order.

(c) “COVID-19 Symptom” means a symptom consistent with SARS-CoV-2 infection, as listed the guidance issued by DPH titled “COVID-19 Symptom List for Screening and Testing Purposes” and available online at www.sfcdcp.org/covid19symptoms.

(d) “Symptomatic Person” means any individual, regardless of age, who has any COVID-19 Symptom.
12. Continuing Severe Health and Safety Risk Posed by COVID-19. This Order is issued based on the need for increased testing to detect COVID-19 and SARS-CoV-2 infections within the City. Due to the outbreak of the COVID-19 virus in the general public, which is a pandemic according to the World Health Organization, there is a public health emergency throughout the City. Adequate Required Testing is essential to detect both symptomatic and asymptomatic transmission of the virus, provide appropriate treatment for infected patients, be able to identify cases and isolate them, identify contacts of cases and quarantine them, thereby slow virus transmission as much as possible in order to protect the most vulnerable, prevent infections and serious illness and death, prevent the healthcare system from being overwhelmed, and support the return and ongoing operation of key essential services like skilled nursing facilities and primary and secondary education. Required Testing is also an essential tool in the City’s mitigation efforts in order to understand the prevalence and spread of the disease in the City. One proven way to slow transmission is to identify sources of infection and isolate or quarantine close contacts of those sources before further outbreak occurs. Conducting broader testing provides greater opportunity to react to positive cases quickly enough to stop uncontrollable transmission. Broad testing also increases the availability of invaluable data used to better understand and combat COVID-19 and the virus that causes it.

13. Cases, Hospitalizations, and Deaths. As of November 4, 2020, there are 12,753 confirmed cases of COVID-19 in the City (up from 37 on March 16, 2020, the day before the first shelter-in-place order in the City went into effect) as well as at least 151 deaths (up from 1 death on March 17, 2020). This information, as well as information regarding hospitalizations and hospital capacity, is regularly updated on the San Francisco Department of Public Health’s website at https://data.sfgov.org/stories/s/fjki-2fab.


(a) State and Local Emergency Proclamations. This Order is issued in accordance with, and incorporates by reference, the March 4, 2020 Proclamation of a State of Emergency issued by Governor Gavin Newsom, the March 12, 2020 Executive Order (Executive Order N-25-20) issued by Governor Gavin Newsom, the February 25, 2020 Proclamation by the Mayor Declaring the Existence of a Local Emergency issued by Mayor London Breed, as supplemented on March 11, 2020, the March 6, 2020 Declaration of Local Health Emergency Regarding Novel Coronavirus 2019 (COVID-19) issued by the Health Officer, and guidance issued by the California Department of Public Health, as each of them have been and may be supplemented.
(b) **State Health Orders.** This Order is also issued in light of the March 19, 2020 Order of the State Public Health Officer (the “State Shelter Order”), which set baseline statewide restrictions on non-residential Business activities, effective until further notice, the Governor’s March 19, 2020 Executive Order N-33-20 directing California residents to follow the State Shelter Order, and the July 13, 2020 Order of the State Public Health Officer. The May 4, 2020 Executive Order issued by Governor Newsom and May 7, 2020 Order of the State Public Health Officer permit certain Businesses to reopen if a local health officer believes the conditions in that jurisdictions warrant it, but expressly acknowledge the authority of local health officers to establish and implement public health measures within their respective jurisdictions that are more restrictive than those implemented by the State Public Health Officer. Also on June 18, 2020, the State Department of Public Health issued guidance for the use of face coverings, requiring all people in the State to wear face coverings in certain high risk situations, subject to limited exceptions.

15. **Effective Date.** This Order becomes effective at 11:59 p.m. on November 13, 2020, and will continue to be in effect until it is extended, rescinded, superseded, or amended in writing by the Health Officer, repealing and replacing Order No. C19-15b at that time.

16. **Reporting Violations.** Any person who believes this Order is being violated may contact 3-1-1 or go to [www.sf.gov/report-health-order-violation](http://www.sf.gov/report-health-order-violation) to provide information about the alleged violation.

17. **Copies.** The City must promptly provide copies of this Order as follows: (1) by posting on the Department of Public Health website at [www.sfdph.org/healthorders](http://www.sfdph.org/healthorders); (2) by posting at City Hall, located at 1 Dr. Carlton B. Goodlett Pl., San Francisco, CA 94102; and (3) by providing to any member of the public requesting a copy. In addition, the owner, manager, or operator of any facility, business, or entity that is likely to be impacted by this Order is strongly encouraged to post a copy of this Order onsite and must provide a copy to any member of the public asking for a copy.

18. **Severability.** If any provision of this Order or its application to any person or circumstance is held to be invalid, then the remainder of the Order, including the application of such part or provision to other people or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Order are severable.

19. **Interpretation.** All provisions of this Order must be interpreted to effectuate the intent of this Order as described in Section 1 above. The summary at the beginning of this Order as well as the headings and subheadings of sections contained in this Order are for convenience only and may not be used to interpret this Order; in the event of any inconsistency between the summary, headings, or subheadings and the
text of this Order, the text will control. Certain initially capitalized terms used in this Order have the meanings given them in Section 11 above.

IT IS SO ORDERED:

Tomás J. Aragón, MD, DrPH,
Health Officer of the
City and County of San Francisco

Date: November 6, 2020