

STATE OF NEW JERSEY
DEPARTMENT OF HEALTH
NOTICE OF RULE WAIVER/MODIFICATION/SUSPENSION
PURSUANT TO EXECUTIVE ORDER NO. 103 (Murphy) (March 9, 2020)
COVID-19 STATE OF EMERGENCY

Temporary Rule WAIVER/MODIFICATION OF N.J.A.C. 8:43A-23.3 MOBILE VANS,
adopted by THE COMMISSIONER OF THE DEPARTMENT OF HEALTH

Date: December 10, 2020

Authority: Emergency Health Powers Act, N.J.S.A. 26:13-1 to -31; N.J.S.A. App.A:9-45 & App. A:9-47;
Executive Order No. 103 (Murphy) ("EO 103")

Effective Date: December 10, 2020

Expiration Date: Concurrent with end of Public Health Emergency

This is an emergency adoption of a temporary rule waiver of the requirement that ambulatory care facilities with licensed mobile vans submit to the Department a service schedule, which includes, but is not limited to, dates, times and address(es) where the licensed mobile van will be temporarily stationed to provide licensed care, or memorandums of understanding between a licensed mobile van and host location.

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. Pursuant to that authority and the Emergency Health Powers Act, N.J.S.A. 26:13-1 to -31, 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 waiving its rules as follows:

Pursuant to N.J.A.C. 8:43A-23.3(a), ambulatory care facilities wishing to use mobile vans to provide services must seek Department authorization to operate the vans. When a facility is using a mobile van for primary care services, N.J.A.C. 8:43A-23.3(b) requires the facility to have policies and procedures in place that, at a minimum, address patient care, control of drugs, medical records, and infection prevention and control. As part of the authorization process, the Department requires facilities to provide either a service schedule for their mobile vans, which includes, but is not limited to, dates, times and address(es) where the licensed mobile vans will be temporarily stationed to provide licensed care, or memorandums of understanding between a licensed mobile van and host location in order to receive authorization to operate the vans. It is necessary and appropriate to relax the service schedule requirements set forth in the Department's mobile van authorization process in order to expand access to healthcare services, including COVID-19 testing, vaccinations, and primary care, to vulnerable and underserved populations during the public health emergency and help alleviate the burden on hospitals and other healthcare providers impacted by COVID-19. Pursuant to this waiver/modification, ambulatory care mobile van operators can add additional service locations without first obtaining Department approval,

will not be required to adhere to their Department authorized service schedule for their currently authorized mobile vans or submit a service schedule to the Department prior to deploying a mobile van to a specific location during the public health emergency declaration. Instead, under this waiver/modification, within forty-five days of the conclusion of the Public Health Emergency, any ambulatory care facility that implemented the terms of this waiver must submit a written report to the Department detailing the dates, times and addresses of locations served, the duration of the implementation, and any adverse outcomes attributable to the actions.

Ambulatory care facilities operating mobile vans may implement the terms of this waiver as necessary until the conclusion of the Public Health Emergency declared by Governor Philip D. Murphy in Executive Order No. 103. Upon the conclusion of the Public Health Emergency, any facility that has implemented the terms of this waiver shall resume operating in accordance with the Department's requirements by returning to their previously licensed location(s) and submitting service schedules and/or memorandums of understanding with host locations.

Full Text of the modified rule follows, with additional terms and conditions indicated in boldface:

8:43A-23.3 Mobile vans

- (a) If a facility wishes to provide services through use of one or more mobile vans, the facility shall obtain the prior authorization of the Licensing, Certification and Standards Program of the Department. Such authorization may be contingent upon an on-site inspection by representatives of the Department.
 - (b) Policies and procedures for the use of mobile vans in the provision of primary care services shall address at least patient care, control of drugs, medical records, and infection prevention and control.
 - (c) **Notwithstanding the above provisions, during the period of the COVID-19 Public Health Emergency, ambulatory care facilities operating mobile vans:**
 - i. Can add additional service locations without first obtaining Department approval;**
 - ii. Will not be required to adhere to their Department authorized service schedule for their currently authorized mobile van; and**
 - iii. Will not be required to submit a service schedule to the Department prior to deploying a mobile van to a specific location.**
- 1. At the end of the Public Health Emergency, ambulatory care facilities operating mobile vans must resume operating in accordance with the Department's requirements by returning to their previously licensed location(s) and submitting service schedules and/or memorandums of understanding with host locations.**

2. **Within forty-five days of the conclusion of the Public Health Emergency, any ambulatory care facility that implemented the terms of this waiver must submit a written report to the Department detailing the dates, times and addresses of locations served, the duration of the implementation, and any adverse outcomes attributable to the actions.**

I find that waiver of the rules above is 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**



12/10/20

DATE

BY: Judith M. Persichilli, RN, BSN, MA
Commissioner
Department of Health

WAIVER CONTROL NUMBER: 20-N.J.A.C. 8:43A-23.3