



ORDER OF THE HEALTH OFFICER No. C19-14

**ORDER OF THE HEALTH OFFICER
OF THE CITY AND COUNTY OF SAN FRANCISCO REQUIRING SARS-CoV-2
TESTING OF ALL DECEDENTS IN THE CITY AND COUNTY OF SAN FRANCISCO**

(PUBLIC HEALTH EMERGENCY ORDER)

DATE ORDER ISSUED: June 25, 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); San Francisco Administrative Code section 7.17(b).)

Summary: The current pandemic related to SARS-CoV-2, the virus that causes Coronavirus Disease 2019 (“COVID-19”), continues to be a serious public health emergency. New information about the course of the pandemic is discovered all the time. In order for the City and County of San Francisco (the “City”) to continue to address the pandemic, it is important to discover as much information as possible about the virus’s spread within the community. This Order requires testing of all recently-deceased people in the City and County of San Francisco (“the City”) for the presence of the SARS-CoV-2 virus prior to final disposition of the body. This Order fulfills multiple purposes during the current pandemic. It protects the occupational health of postmortem care workers by enabling them to evaluate their risk of exposure to SARS-CoV-2 and to implement infection prevention measures accordingly. It addresses a critical epidemiological need by helping identify sources and rates of infection among the City’s population and the risks of morbidity associated with infection since it is possible that people are dying with an undiagnosed SARS-CoV-2 infection, and that infection may or may not play a role in relation to the person’s death. It also assists the Department of Public Health with contact tracing regarding the SARS-CoV-2 virus and infections, helping determine who may have been in contact with an infected person in the days before they died, including when that person had no symptoms. And it will also serve the public by allowing the City to post accurate information about infection rates on the City’s website, informing policymakers and the public during the pandemic. In the absence of the information obtained through this order, important aspects of the pandemic will remain unclear.

This Order goes into effect at 11:59 p.m. on June 25, 2020, and continues indefinitely until it is repealed, modified, or replaced by the Health Officer of the City and County of San Francisco (the “Health Officer”). Other capitalized terms used in this Order are generally defined in Section 6 below. The Health Officer may revise this Order as the situation evolves, and each General Acute Care Hospital, Skilled Nursing Facility and Funeral-Related Service must stay updated by checking the Department of Public Health (“DPH”) website at www.sfdph.org/healthorders regularly.



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This summary is for convenience only and may not be used to interpret this Order; in the event of any inconsistency between the summary and the text of this Order below, the text will control.

**UNDER THE AUTHORITY OF CALIFORNIA HEALTH AND SAFETY CODE
SECTIONS 1797.153, 101040, 101085, AND 120175, THE HEALTH OFFICER OF THE
CITY AND COUNTY OF SAN FRANCISCO ORDERS:**

- 1. The intent of this Order is to increase opportunities for detecting SARS-CoV-2 infection hazards to postmortem care workers, grow the epidemiological monitoring capacity of the City in relation to SARS-CoV-2, enhance the tracing of the community spread of SARS-CoV-2 in the City, and enable better public reporting of the prevalence of SARS-CoV-2 infections to support policymaking and public understanding of the pandemic. All provisions of this Order must be interpreted to effectuate this intent. Failure to comply with any of the provisions of this Order constitutes an imminent threat and creates an immediate menace to public health.**
- 2. In relation to each person who dies in the City on or after the effective date of this Order, this Order requires either that the person must have been subjected to Antemortem Testing (as that term is defined in Section 6(a) below) or the human remains of that person must undergo Postmortem Testing (as that term is defined in Section 6(b) below) before the remains may be transported out of the City or prepared for final disposition by any Funeral-Related Service (as that term is defined in Section 6(c) below) in the City. Such testing must be done in the manner outlined below depending on the context of the person's death. When the death occurred at a General Acute Care Hospital or Skilled Nursing Facility (as those terms are defined in Sections 6(e) and 6(f) below), testing in those situations is addressed in Section 4 below. For all other deaths in the City, the testing requirements are outlined in Section 3 below.**
- 3. Before the removal of any human remains from a place of death in the City, transport of human remains from any location in the City, or preparation of human remains for burial, cremation, or other final disposition, each Funeral-Related Service that is acting or operating in the City must either (i) confirm that Antemortem Testing was performed prior to the person's death or (ii) arrange for Postmortem Testing of the human remains or confirm that such testing occurred. The testing requirement applies to any remains picked up from a long-term care or other congregate-living facility, hospice facility, a decedent's home, or other residential setting, but this Section 3 does not apply when the death occurred at a General Acute Care Hospital or Skilled Nursing Facility because testing in those situations is addressed in Section 4 below.**

In relation to the testing required by this Section 3, the Funeral-Related Service's obligation to ensure testing may be satisfied if the Funeral-Related Service contacts



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the City's Department of Public Health Decedent Testing Unit at 415-487-5046 and coordinates the performance of Postmortem Testing with the Decedent Testing Unit.

A Funeral-Related Service must not attempt to collect reimbursement of the cost of any Postmortem Testing from a deceased patient's family, next of kin, or estate.

4. Before arranging for the removal of a deceased patient's remains by a Funeral-Related Service or Medical Examiner, as that term is defined in Section 6(d) below, or prior to releasing the deceased patient's remains for transit from the facility, each General Acute Care Hospital and each Skilled Nursing Facility in the City must either (i) confirm that Antemortem Testing was performed prior to the person's death or (ii) perform, or cause to be performed, Postmortem Testing of the remains prior to release or transport of the remains. In relation to such testing, the hospital or facility must:
 - (a) Document the occurrence of Antemortem Testing or Postmortem Testing, whether through existing or new documentation, in the deceased patient's medical record;
 - (b) Report to any postmortem care worker from a Funeral-Related Service or Medical Examiner who is responsible for retrieval of the deceased patient's remains the most recent SARS-CoV-2 test result, when known, and if the hospital or facility is awaiting results from the most recent SARS-CoV-2 test at the time that the patient's remains are retrieved, the hospital or facility must later inform the postmortem care worker who retrieves the remains of such results as soon as they are available, making sure to obtain contact information for the postmortem care worker at the time the patient's remains are picked up;
 - (c) Not attempt to collect reimbursement of the cost of any Postmortem Testing from a deceased patient's family, next of kin, or estate; and
 - (d) Report positive SARS-CoV-2 test results as required by law and, within 24 hours, to the Department of Public Health's Communicable Disease Control Unit at 415-554-2830.

In the event that human remains are being picked up by a Funeral-Related Service from a General Acute Care Hospital or Skilled Nursing Facility, it is the obligation of the General Acute Care Hospital or Skilled Nursing Facility to ensure that the testing requirements of this Section 4 are met.

5. Except for situations where the City's Office of the Chief Medical Examiner authorizes a patient's physician to sign the certificate of death without the need for an inquiry as authorized by Section 27491(b) of the California Government Code, the Office of the Chief Medical Examiner, in relation to deaths under that office's



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jurisdiction, will transport the deceased person's remains to its own facility and will either confirm that Antemortem Testing was performed prior to the person's death or ensure that Postmortem Testing is conducted.

6. Definitions.

- (a) The term "Antemortem Testing" means testing for the presence of SARS-CoV-2 prior to the person's death by a method approved by the United States Food and Drug Administration (the "FDA") for that purpose. For purposes of this Order, Antemortem Testing of a person who has died may only be one of the following:
- i. A positive diagnostic test confirming the presence of SARS-CoV-2 in the person where the test was conducted in the fourteen (14) days prior to the person's death;
 - ii. A negative diagnostic test indicating the likely absence of SARS-CoV-2 in the person where the test was conducted in the seventy-two (72) hours prior to the person's death; or
 - iii. A previous diagnosis of COVID-19 that resulted in or contributed to the person's death where there was a previous positive diagnostic test confirming the presence of SARS-CoV-2 in the person.

Note that an indeterminate diagnostic test for SARS-CoV-2 conducted within any of the periods listed in this subsection (a) does not constitute Antemortem Testing, and in such situations Postmortem Testing must be performed.

- (b) The term "Postmortem Testing" means testing for the presence of SARS-CoV-2 following the death of the person by a method approved by the FDA for that purpose. Such testing must conform to guidance from the United States Centers for Disease and Control and Prevention (the "CDC") on the collection and submission for testing of postmortem specimens from deceased persons with known or suspected COVID-19, even if the deceased person is not suspected to have had COVID-19. The CDC guidance is available online at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-postmortem-specimens.html>.
- (c) The term "Funeral-Related Service" means each of the following:
- i. A "licensed funeral establishment" as defined by Section 7616 of the California Business and Professions Code;



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- ii. Any person, entity, or business engaged in providing cemetery, crematory, or embalmer services under Chapter 12 of Division 3 of the California Business and Professions Code;
- iii. A “funeral director” as defined by Section 7615 of the California Business and Professions Code and any person acting under the direction of such a funeral director; or
- iv. Any person, entity, or business engaged in the transportation of human remains within the City or from any location in the City to any location outside the City.

But the term Funeral-Related Service does not include personnel of the Office of the Chief Medical Examiner or any other duly authorized public officer. By way of example and without limitation, the term Funeral-Related Service includes those professionals and businesses that regularly seek a permit for disposition of human remains, disposition permit, burial permit, or similar official writing authorizing the burial, cremation, or transit of human remains.

- (d) The term “Medical Examiner” means any personnel associated with a coroner or medical examiner, including but not limited to the City’s Office of the Chief Medical Examiner.
 - (e) The term “General Acute Care Hospital” means any hospital in the City that is licensed by the California Department of Public Health (“CDPH”) under Section 1250(a) of the California Health and Safety Code.
 - (f) The term “Skilled Nursing Facility” means any health facility in the City that provides skilled nursing and supportive care and is licensed by CDPH under Section 1250(c) of the California Health and Safety Code.
 - (g) The terms General Acute Care Hospital and Skilled Nursing Facility also include the San Francisco VA Health Care System (“VAMC San Francisco”), located at 4150 Clement Street, San Francisco, CA 94121, to the extent that VAMC San Francisco includes general acute care hospital and skilled nursing facility-type care. But in relation solely to the VAMC San Francisco, this Order does not impose any duty on the facility to comply, but it does impose on any Funeral-Related Service the duty to comply with this Order in relation to any human remains picked up at or transported from the VAMC San Francisco. This Order also strongly encourages the VAMC San Francisco to comply with this Order’s requirements.
- 7. This Order is based on evidence of continued occurrence of COVID-19 within the City and throughout the Bay Area, scientific evidence and best practices regarding**



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the most effective approaches to monitor and surveille the transmission of communicable diseases generally and COVID-19 specifically, as well as expert guidance and best practices for workers and employers of workers at increased risk of occupational exposure to SARS-CoV-2. The CDC has issued guidance on the collection and submission of postmortem specimens from deceased persons with known or suspected COVID-19; the California Department of Public Health has issued an All-Facilities Letter (AFL 20-24) providing guidance for procedures and transfer of deceased persons with confirmed or suspected COVID-19; and the Occupational Safety and Health Administration of the United States Department of Labor has issued guidance on COVID-19 control and prevention for postmortem care workers who handle human remains. These guidelines show the importance of following best practices related to the handling of human remains in light of the current pandemic. And there are documented cases of the presence of SARS-CoV-2 in decedents whose immediate cause of death was not attributed to COVID-19.

- 8. Due to the outbreak of SARS-CoV-2 in the general public, there is a public health emergency throughout the City. Making the problem worse, some individuals who contract SARS-CoV-2 have no symptoms (are asymptomatic) or have mild symptoms, which means they may not be aware they carry the virus. The virus is easily transmitted between all of these people, including those who are asymptomatic or those whose symptoms have not yet developed. Although our community is beginning a gradual reopening, there is not yet a proven treatment or cure for COVID-19. It remains essential to slow virus transmission as much as possible to protect the most vulnerable and to prevent the health care system from being overwhelmed. 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. Testing conducted across broad swaths of society 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. Decedent testing specifically protects postmortem care workers at increased risk of occupational exposure to SARS-CoV-2 and also helps identify potential carriers of the virus who had recent contact with the deceased person.**
- 9. This Order is also issued in light of the existence, as of June 24, 2020, of 3,297 confirmed cases of infection by the COVID-19 virus in the City, including 48 deaths and a significant and increasing number of cases of community transmission. In light of these facts, this Order is necessary to monitor and control the rate of spread of the virus among people in the City and to accurately monitor the prevalence of SARS-CoV-2 in the community, and the Health Officer will continue to assess the quickly evolving situation and may modify this Order, issue Directives related to this Order, or issue additional Orders, related to COVID-19, as changing circumstances dictate.**



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- 10. This Order is also issued in accordance with, and incorporates by reference, the June 11, 2020 Shelter in Place Order (Order No. C19-07e) issued by the Health Officer, 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 Newsom, the February 25, 2020 Proclamation by Mayor London Breed Declaring the Existence of a Local Emergency (as supplemented several times after its issuance), the March 6, 2020 Declaration of Local Health Emergency Regarding Novel Coronavirus 2019 (COVID-19) issued by the Health Officer, other emergency actions by the Health Officer, the City, and California, and guidance issued by the CDPH and the CDC, as each of them have been and may be updated in the future.**
- 11. This Order becomes effective at 11:59 p.m. on June 25, 2020, and will continue to be in effect until it is extended, rescinded, superseded, or amended in writing by the Health Officer.**
- 12. 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; (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.**
- 13. 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.**

IT IS SO ORDERED:

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

Date: June 25, 2020