

PA Governor Invokes Emergency Authority to Commandeer Critical Medical Supplies and Equipment

Articles, COVID 19: Answers to Business Challenges April 14, 2020

On Wednesday, April 8, 2020, Governor Tom Wolf entered an emergency order (“Order”) pursuant to Sections 7301 (f) (4) and 7313 (10) of the Emergency Management Services Code that authorizes the Pennsylvania Emergency Management Agency (“PEMA”) to commandeer personal protective equipment (“PPE”), pharmaceuticals and other medical resources from all private, public and quasi-public health care providers and facilities, as well as manufacturers and suppliers as deemed necessary to provide care for patients suffering from COVID-19 or to otherwise combat the spread of the virus.

All such healthcare providers and facilities, as well as manufacturers, distributors or suppliers located in the Commonwealth are required to provide up to date information concerning their inventory of PPE, pharmaceuticals and other medical resources as directed by PEMA within 5 days of the Order and to provide whatever further updates as required by PEMA. In addition, health care providers and facilities that are part of the incident command structure must report information to PEMA and the Department of Health (“DOH”) and to otherwise cooperate with data-sharing and information exchanges as requested by those two agencies.

PEMA and DOH have established an online COVID-19 Critical Medical Supplies Procurement Portal through which manufacturers, distributors and other providers can relay up-to-date information regarding their inventories. This portal is found on both the PEMA and DOH websites and can be accessed directly through the following link:

Though this Order, Governor Wolf further directed PEMA to coordinate with other Commonwealth agencies to provide for the availability and use of PPE, pharmaceuticals and other medical resources necessary to respond to COVID-19. In doing so, Commonwealth agencies are to provide payment to any healthcare providers, facilities, manufacturers or suppliers “under terms and conditions agreed upon”, as stated in 35 Pa. C.S. § 7313 (10).

The Order also sets the compensation price of PPE, pharmaceuticals, and other medical resources as the average price at which such consumer goods or services were available from February 28 through March 5, 2020.

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