

ORDINANCE NO. _____

AN URGENCY ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ENACTING A REQUIREMENT THAT ALL LICENSED HEALTH CARE PROVIDERS AND PRIVATE COMMERCIAL LABORATORIES IN MONTEREY COUNTY REPORT INFORMATION REGARDING COVID-19 TESTING TO THE COUNTY HEALTH OFFICER

County Counsel Summary

This urgency ordinance addresses the need for the County Health Officer to obtain necessary information regarding testing for COVID-19 performed by all licensed health care providers and private commercial laboratories in the County. Such laboratories are not currently providing all necessary information to the County Health Officer, which is necessary for the Health Officer to perform statutorily mandated duties. In addition, testing may soon be available in the offices of individual or group-licensed health care providers, and the Health Officer should have access to information developed from such testing. This ordinance is effective immediately.

WHEREAS, on March 4, 2020, the Governor issued a Proclamation of a State of Emergency in the State of California related to the COVID-19 pandemic; and,

WHEREAS, on March 6, 2020, the County Administrative Officer declared the existence of a Local Emergency related to the COVID-19 pandemic pursuant to Government Code sections 8630 et seq., which declaration was ratified by the Board of Supervisors on March 10, 2020; and,

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency in light of the COVID-19 pandemic, and further declared on March 22, 2020, that a major disaster exists in the State of California as a result of the COVID-19 pandemic; and,

WHEREAS, in order to carry out duties prescribed by Health and Safety Code sections 101025 et seq., and 120175 et seq., the Monterey County Health Officer requires all pertinent information regarding the testing, and results of testing, for the COVID-19 virus be provided to the Health Officer and the Monterey County Health Department; and,

WHEREAS, various private commercial laboratories in Monterey County have already provided some results of tests for COVID-19; and,

WHEREAS, testing for COVID-19 may soon be possible in the offices of individual or group-licensed health care providers, and such testing information should also be provided to the Health Department; and,

WHEREAS, the California Confidentiality of Medical Information Act ("CMIA"), and the federal Health Insurance Portability and Accountability Act of 1996 ("HIPAA") allow health care providers to disclose confidential medical information to state and local health officials for purposes of preventing or controlling disease where the disclosure is permitted by state or federal law (Civil Code §56.10(b)(9), §56.10(c)(18); 45 C.F.R. §164.512(b)(1)(i)); and,

WHEREAS, CMIA and HIPAA permit the reporting of COVID-19 related information to the Monterey County Health Officer when necessary to perform the Health Officer's duties pursuant to state or federal law (Civil Code §56.10(c)(18); 45 CFR 164.512(b)(1)(i)); NOW, THEREFORE,

The Board of Supervisors of the County of Monterey ordains as follows:

SECTION 1. The provisions of the Governor's Proclamation of State Emergency, the Board of Supervisors ratification of the County Administrative Officer's declaration of local emergency, and the President's declarations of nationwide national emergency and major disaster in California, including their recitals, are incorporated herein as if fully set forth.

SECTION 2. The above recitals, and the recitals in the proclamations and declarations set forth in Section 1, are true and correct.

SECTION 3. Findings and purpose.

In order to address an immediate threat to the public peace, health and safety, this ordinance requires all licensed health care providers and private commercial laboratories in Monterey County that have conducted, are conducting, or will conduct testing, or that are in possession of results of testing, for the COVID-19 (SARS-CoV-2 or novel Coronavirus) virus, provide the Monterey County Health Officer and Health Department all information regarding such testing.

SECTION 4. Applicability.

This ordinance applies to all licensed health care providers and private commercial laboratories within the County of Monterey, including both the unincorporated and incorporated areas of the County.

SECTION 5. Reporting Requirement.

Pursuant to the general police power of the County to protect the health, safety and welfare of its citizens, and the authority of the Monterey County Health Officer relating to the investigation, reporting and prevention of communicable diseases, all licensed health care providers and private commercial laboratories in the County of Monterey, including those in both the unincorporated and incorporated areas of the County, that have conducted, are conducting, or will conduct testing, or that are in possession of results from testing, for the COVID-19 virus (SARS-CoV-2 or novel Coronavirus), are immediately required to provide the

Monterey County Health Officer and the Health Department all information regarding such testing including, without limitation, the results of the testing (detected, not detected, inconclusive or specimen unsatisfactory), and all demographic information regarding the subject of the test (age, gender, etc.). The County Health Officer and Health Department shall determine how such information is to be used, and are directed to treat such information confidentially if required by HIPAA and CMIA.

SECTION 6. Other actions.

The County Health Officer, Health Department Director, County Administrative Officer and County Counsel are hereby authorized and directed to take such other and further actions as may be necessary or appropriate to implement the intent and purposes of this ordinance.

SECTION 7. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 8. Effective date.

This ordinance shall take effect immediately as an urgency ordinance. This is based on the Board of Supervisors finding that this ordinance is adopted in compliance with Government Code Section 25123, that it is necessary for the protection of the public peace, health and safety, and that it is necessary to prevent the County of Monterey from suffering potentially irreversible impacts of the COVID-19 pandemic emergency.

PASSED AND ADOPTED this ____ day of _____, 2020, by the following vote:

AYES:

NOES:

ABSENT:

Christopher M. Lopez, Chair,
Monterey County Board of Supervisors

A T T E S T :

VALERIE RALPH
Clerk of the Board

By: _____
Deputy

APPROVED AS TO FORM:

LESLIE J. GIRARD
County Counsel