

Enhanced Surveillance Advisories and Public Health Emergencies (Arizona Revised Statutes: Title 36 - Public Health and Safety; Chapter 6 – Public Health Control; Article 9)

**36-781. Definitions**

In this article, unless the context otherwise requires:

1. "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance or biological product that may be engineered as a result of biotechnology or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance or biological product, to cause or attempt to cause death, disease or other biological malfunction in humans.
2. "Director" means the director of the department of health services.
3. "Health care provider" has the same meaning prescribed in section 12-2291.
4. "Local health authority" means a county health department or public health services district or any person authorized to act on behalf of the county health department or public health services district.
5. "Public safety authority" means the department of public safety, a local law enforcement agency or a person authorized to act on behalf of the department of public safety or local law enforcement agency.

**36-782. Enhanced surveillance advisory**

A. The governor, in consultation with the director, may issue an enhanced surveillance advisory if the governor has reasonable cause to believe that an illness, health condition or clinical syndrome caused by bioterrorism, epidemic or pandemic disease or a highly fatal and highly infectious agent or biological toxin has or may occur or that there is a public event that could reasonably be the object of a bioterrorism event. The illness or health condition may not include acquired immune deficiency syndrome or any other infection caused by the human immunodeficiency virus.

B. As determined by the governor after considering the least restrictive measures necessary that are consistent with public health and safety, the enhanced surveillance advisory shall direct the following in accordance with this article:

1. Those persons and entities required to report.
2. The clinical syndromes, any illness or health condition that may be associated with bioterrorism or a specific illness or health condition to be reported.
3. Patient tracking.
4. Information sharing.
5. Specimen testing coordination.

C. The director shall notify local health authorities before the governor issues an enhanced surveillance advisory. The department and local health authorities shall provide the enhanced surveillance advisory to those persons and entities required by the advisory to report pursuant to this article by using any available means of communication. This article does not alter the department's or a local health authority's ability to monitor community health status or implement control measures for the early detection of communicable and preventable diseases otherwise allowed by law.

D. Before the governor issues an enhanced surveillance advisory, the department and local health authorities must meet with representatives of persons or institutions who will be affected by the enhanced surveillance advisory pursuant to section 36-783, subsections A, B and C. If, because of an immediate threat to the public health, the department and local health authorities are not able to hold this meeting before the governor issues the advisory, the meeting must take place within seventy-two hours after the governor issues the advisory.

E. To the extent possible, the department and local health authorities shall share department and local health authority personnel, equipment, materials, supplies and other resources to assist persons and institutions affected to implement the terms of the advisory.

F. At the governor's direction, the department may use reasonable efforts to assist the persons and institutions to receive reimbursement of costs incurred because of the implementation of the advisory.

G. An enhanced surveillance advisory may be revised or terminated at any time by the director and automatically terminates after sixty days, unless renewed by the governor.

**36-783. Increased reporting during enhanced surveillance advisory**

A. A health care provider or medical examiner shall report to the local health authority all cases of any illness, health condition or clinical syndrome specified in the enhanced surveillance advisory. The report shall provide additional information designated in the enhanced surveillance advisory.

B. The state veterinarian, a veterinarian, a veterinarian laboratory professional or a wildlife professional shall report any case of animal illness or death due to the disease or other health condition designated in the enhanced surveillance advisory to the department or local health authority. The report shall include the species and number of affected animals and the name and address of the reporting veterinarian, veterinarian laboratory professional or wildlife professional.

C. A pharmacist who identifies any unusual increase in prescriptions for antibiotics or any unusual increase in prescriptions or sales of over-the-counter pharmaceuticals to treat the illness, health condition or clinical syndrome identified in the enhanced surveillance advisory shall report this information to the local health authority. The report shall include the type of pharmaceutical and the name and address of the pharmaceutical provider.

D. The reports must be in writing or by any method directed by the department or local public health authority and must be submitted within twenty-four hours after identifying the reportable circumstance. All persons required to report under this section must cooperate with the department and local health authority in effecting the enhanced surveillance advisory. Failure to report pursuant to this section is an act of unprofessional conduct.

E. The department and local public health authority shall maintain as confidential:

1. Any information or a particular part of information provided under this section that, if made public, would divulge the trade secrets of a person or business.

2. Other information likely to cause substantial harm to the person's or business' competitive position.

F. The local health authority shall immediately notify the department of any reports received during the period of an enhanced surveillance advisory.

#### **36-784. Patient tracking during enhanced surveillance advisory**

A. During an enhanced surveillance advisory, to identify, diagnose, treat and track persons who may have been exposed to an illness, health condition or clinical syndrome identified in an enhanced surveillance advisory, the department and local health authority may access confidential patient information, including medical records, wherever and by whomever held and whether or not patient identity is known.

B. The department or local health authority shall counsel and interview any person as necessary to assist it in the positive identification of exposed persons and to develop information relating to the source and spread of the illness or health condition. This information must include the names and addresses of any persons from whom the illness or health condition may have been contracted and to whom the illness or health condition may have spread.

C. Any medical information or other information from which a person might be identified that is received by the department or local health authority in the course of an enhanced surveillance advisory is confidential and is not available to the public.

#### **36-785. Information sharing during an enhanced surveillance advisory**

A. During an enhanced surveillance advisory, when a public safety authority learns of a suspicious disease event, or it learns of a threatened bioterrorism act at any time, it shall immediately notify the department or the local health authority, and the agency that receives this information must immediately notify the other agency.

B. When the department or the local health authority identifies a reportable illness or health condition, unusual disease cluster or suspicious disease event that it reasonably believes may be caused by bioterrorism, the department or local health authority must immediately notify at any time the appropriate public safety authority and, if appropriate, tribal health authorities.

C. Sharing of information on reportable illnesses, health conditions, unusual disease clusters or suspicious disease events between public safety and local health authorities is limited to the information necessary to effect the enhanced surveillance advisory and does not include the release of medical records to public safety authorities. Information from which a person might be identified that is received by the department, local health authority or public safety authority in the course of an enhanced surveillance advisory is confidential and not available to the public.

#### **36-786. Laboratory testing during an enhanced surveillance advisory**

A. The state laboratory shall coordinate specimen testing relating to enhanced surveillance advisory. If necessary and at state expense, the department may designate other laboratories to assist it in testing specimens.

B. The department shall determine the criteria necessary for private or public laboratories to conduct clinical or environmental testing associated with bioterrorism or any illness or health condition subject to the enhanced surveillance advisory.

C. During an enhanced surveillance advisory, a public safety authority, if requested by the department or local health authority, shall coordinate and provide transportation of clinical or environmental samples to the state laboratory or other testing laboratory designated by the department.

**36-787. Public health authority during state of emergency or state of war emergency**

A. During a state of emergency or state of war emergency declared by the governor in which there is an occurrence or imminent threat of an illness or health condition caused by bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin and that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability, the department shall coordinate all matters pertaining to the public health emergency response of the state. The department has primary jurisdiction, responsibility and authority for:

1. Planning and executing public health emergency assessment, mitigation, preparedness response and recovery for this state.

2. Coordinating public health emergency response among state, local and tribal authorities.

3. Collaborating with relevant federal government authorities, elected officials of other states, private organizations and private sector companies.

4. Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies.

5. Organizing public information activities regarding state public health emergency response operations.

6. Establishing, in conjunction with applicable professional licensing boards, a process for temporary waiver of the professional licensure requirements necessary for the implementation of any measures required to adequately address the state of emergency or state of war emergency.

7. Granting temporary waivers of health care institution licensure requirements necessary for implementation of any measures required to adequately address the state of emergency or state of war emergency.

B. In addition to the authority provided in subsection A of this section, during a state of emergency or state of war emergency, the governor, in consultation with the director of the department of health services, may issue orders that:

1. Mandate medical examinations for exposed persons.

2. Ration medicine and vaccines.

3. Provide for transportation of medical support personnel and ill and exposed persons.

4. Provide for procurement of medicines and vaccines.

C. In addition to the authority provided in subsections A and B, during a state of emergency or state of war emergency in which there is an occurrence or the imminent threat of smallpox, plague, viral hemorrhagic fevers or a highly contagious and highly fatal disease with transmission characteristics similar to smallpox, the governor, in consultation with the director of the department of health services, may issue orders that:

1. Mandate treatment or vaccination of persons who are diagnosed with illness resulting from exposure or who are reasonably believed to have been exposed or who may reasonably be expected to be exposed.

2. Isolate and quarantine persons.

D. Law enforcement officials of this state and the national guard shall enforce orders issued by the governor under this section.

E. Diseases subject to this section do not include acquired immune deficiency syndrome or other infection caused by the human immunodeficiency virus.

F. If during a state of emergency or state of war emergency the public health is not endangered nothing in this title shall authorize the department or any of its officers or representatives to impose on any person against the person's will any mode of treatment, provided that sanitary or preventive measures and quarantine laws are complied with by the person. Nothing in this title shall authorize the department or any

of its officers or representatives to impose on any person contrary to his religious concepts any mode of treatment, provided that sanitary or preventive measures and quarantine laws are complied with by the person.

G. At the governor's direction, the department may use reasonable efforts to assist the persons and institutions affected by the state of emergency or state of war emergency declared pursuant to this section in seeking reimbursement of costs incurred as a result of providing services related to the implementation of isolation and quarantine under this article to the extent these services are not otherwise subject to reimbursement.

**36-788. Isolation and quarantine during a state of emergency or state of war emergency**

A. During a state of emergency or state of war emergency as declared pursuant to section 36-787, the department or local health authority must initiate an investigation if that agency has reasonable cause to believe that a highly contagious and fatal disease exists within its jurisdiction. Subject to the provisions of this article, persons who have contracted the disease or who have been exposed to the disease may be subject to isolation and quarantine if the director determines that quarantine is the least restrictive means by which the public can be protected from transmission of the disease, due to the nature of the disease and available preventive measures, or refusal by an individual to accept less restrictive measures to prevent disease transmission. Diseases for which isolation and quarantine may be ordered do not include acquired immune deficiency syndrome or other infection caused by the human immunodeficiency virus.

B. The department or local health authority may, during the state of emergency or state of war emergency declared by the governor, do the following:

1. Establish and maintain places of isolation and quarantine, which may include the residence of the person quarantined.

2. Require isolation or quarantine of any person by the least restrictive means necessary to protect the public health. The department or local health authority shall use all reasonable means to prevent the transmission of disease among the isolated or quarantined persons.

C. The department, a county health department or a public health services district shall ensure, to the extent possible, that the premises in which a person is isolated or quarantined is maintained in a safe and hygienic manner and is designed to minimize the likelihood of further transmission of disease or other harm to a person subject to isolation or quarantine. Adequate food, clothing, medication and other necessities, competent medical care and means of communicating with those in and outside these settings shall be made available.

D. A person subject to isolation or quarantine shall comply with the department's or local health authority's rules and orders, shall not go beyond the isolation or quarantine premises and shall not come in contact with any person not subject to isolation or quarantine other than a physician or other health care provider, department or local health authority or person authorized to enter an isolation or quarantine premises by the department or local health authority.

E. Other than a person authorized by the department or local health authority, a person shall not enter an isolation or quarantine premises. If, by reason of an unauthorized entry into an isolation or quarantine premises, the person poses a danger to public health, the department, or local health authority may place the person in isolation or quarantine pursuant to this section or section 36-789.

F. The department, or local health authority must terminate isolation or quarantine of a person if it determines that the isolation or quarantine is no longer necessary to protect the public health.

**36-789. Due process for isolation and quarantine during a state of emergency or state of war emergency**

A. The department, or local health authority may isolate or quarantine a person or group of persons through a written directive without first obtaining a written order from the court if any delay in the isolation or quarantine of the person would pose an immediate and serious threat to the public health. The directive shall:

1. Specify the identity of the person or persons subject to isolation or quarantine, the premises subject to isolation or quarantine, the date and time at which isolation or quarantine commences, the suspected highly contagious and fatal disease, if known, and that a state of emergency has been declared by the governor.

2. Be given to the person or persons to be isolated or quarantined. If the directive applies to groups of persons and it is impractical to provide individual copies, it may be posted in a conspicuous place in the isolation or quarantine premises.

B. Within ten days after issuing the written directive, or when any delay in the isolation or quarantine of a person or group of persons will not pose an immediate and serious threat to the public health, the department or local health authority shall file a petition for a court order authorizing the initial or continued isolation or quarantine of a person or group of persons. The petition shall specify the following:

1. The identity of the person or group of persons subject to isolation or quarantine.
2. The premises subject to isolation or quarantine.
3. The date and time at which isolation or quarantine commences.
4. The suspected contagious disease, if known.
5. A statement of compliance with the conditions and principles for isolation and quarantine.
6. A statement of the basis on which isolation or quarantine is justified pursuant to this article.

C. The petition must be accompanied by the sworn affidavit of the department or local health authority attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.

D. Notice to a person or group of persons identified in a petition filed pursuant to subsection B of this section must be completed within twenty-four hours after filing the petition and in accordance with the rules of civil procedure.

E. A hearing must be held on a petition filed pursuant to this section within five days after filing of the petition. In extraordinary circumstances and for good cause shown, the department or local health authority may apply to continue the hearing date on a petition for not more than ten days. If the court grants a continuance it must give due regard to the rights of the affected persons, the protection of the public's health, the severity of the emergency and the availability of necessary witnesses and evidence.

F. The court shall grant the petition if, by a preponderance of the evidence, isolation or quarantine is shown to be reasonably necessary to protect the public health.

G. A court order authorizing isolation or quarantine may do so for a period not to exceed thirty days. The order must:

1. Identify the isolated or quarantined person or group of persons by name or shared or similar characteristics or circumstances.
2. Specify factual findings warranting isolation or quarantine pursuant to this article, including any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this article.
3. Be served on an affected person or group of persons in accordance with the rules of civil procedure.

H. Before an isolation or quarantine order expires, the department or local health authority may move to continue the isolation or quarantine for an additional period not to exceed thirty days. The court shall grant the motion if, by a preponderance of the evidence, isolation or quarantine is shown to be reasonably necessary to protect the public health.

I. A person or group of persons isolated or quarantined pursuant to this section may apply to the court for an order to show cause why the person or group of persons should not be released. The court must rule on the application to show cause within forty-eight hours after it is filed. If the court grants the application, the court must schedule a hearing on the order to show cause within twenty-four hours after it issues the order to show cause. The issuance of an order to show cause does not stay or enjoin an isolation or quarantine order.

J. A person isolated or quarantined pursuant to this section may request a court hearing regarding the person's treatment and the conditions of the quarantine or isolation.

K. On receiving a request for a hearing pursuant to subsection J of this section, the court must set a date for a hearing. The hearing must take place within ten days after the court receives the request. The request for a hearing does not alter the order of isolation or quarantine. If the court finds that the isolation or quarantine of the person or group of persons does not comply with the requirements of this section or section 36-788, the court may provide remedies appropriate to the circumstances of the state of emergency, the rights of the individual and in keeping with the provisions of this article.

L. A record of the proceedings pursuant to this section shall be made and retained. If, because of a state of emergency or state of war emergency declared pursuant to section 36-787, parties cannot personally appear before the court, the proceedings may be conducted by the authorized representatives of the parties and held by any means that allows all parties to fully participate.

M. The court shall appoint counsel at state expense to represent a person or group of persons who is subject to isolation or quarantine pursuant to this article and who is not otherwise represented by counsel. Representation by appointed counsel continues throughout the duration of the isolation or quarantine of the person or group of persons. The department or local health authority must provide adequate means of communication between the isolated or quarantined persons and their counsel.

N. In any proceedings brought pursuant to this section, to promote the fair and efficient operation of justice and having given due regard to the rights of the affected persons, the protection of the public's health, the severity of the emergency and the availability of necessary witnesses and evidence, the court may order the consolidation of individual claims into groups of claims if:

1. The number of persons involved or to be affected is so large as to render individual participation impractical.

2. There are questions of law or fact common to the individual claims or rights to be determined.

3. The group claims or rights to be determined are typical of the affected person's claims or rights.

4. The entire group will be adequately represented in the consolidation.

**36-790. Privileges and immunities**

A. The physician patient privilege does not prevent a person or health care provider from complying with the duty to report or provide personal information and medical information to the department or local health authority in accordance with this article. The department and local health authorities shall maintain the confidentiality of the medical information and personal identifiers received.

B. A person or health care provider undertaking any activity required by this article, including reporting, participating in quarantine or isolation procedures, is immune from civil or criminal liability if the person or health care provider acted in good faith. Actions required by this article are presumed to be in good faith.

C. The immunities prescribed in section 26-314 are applicable to sections 36-787, 36-788 and 36-789.