GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

EXECUTIVE ORDER

Executive Order 2020-56

Enhanced Surveillance Advisory
Monitoring the Spread of COVID-19

WHEREAS, on January 31, 2020, Secretary Alex Azar ("Secretary") of the United States Department of Health and Human Services ("HHS"), declared a public health emergency to address COVID-19; and

WHEREAS, on March 11, 2020, pursuant to Arizona Revised Statutes ("A.R.S.") §§ 26-303 and 36-787, I, as Governor of the State of Arizona, issued a declaration of a Public Health State of Emergency due to the necessity to prepare for, prevent, respond to, and mitigate the spread of COVID-19; and

WHEREAS, pursuant to A.R.S. § 26-303(E)(1) and during a state of emergency, the Governor shall have complete authority over all agencies of the state government and the right to exercise, within the area designated, all police power vested in the State by the constitution of this State in order to effectuate the purposes of A.R.S. Title 26, Chapter 2; and

WHEREAS, pursuant to A.R.S. § 36-787, during a public health state of emergency, the Arizona Department of Health Services shall coordinate all matters pertaining to the public health emergency; and

WHEREAS, on March 30, 2020, the Director of the Arizona Department of Health Services (ADHS), based on an epidemiological assessment of Arizona specific data and in alignment with the Centers for Disease Control and Prevention ("CDC") guidance, recommended the State implement enhanced mitigation strategies which are continuing; and

WHEREAS, as of November 10, 2020, there have been 263,133 diagnosed cases of COVID-19 in Arizona including 6,192 deaths; and

WHEREAS, influenza season in Arizona results in an increase of hospitalizations each year, placing a strain on the Arizona healthcare system; and

WHEREAS, the significant COVID-19 spread in July 2020 resulted in space and staff constraints in Arizona's hospitals, with fewer than 9% of intensive care unit (ICU) beds reported available for several days in July; and

WHEREAS, both COVID-19 and influenza can cause serious complications, including pneumonia and even death; and

WHEREAS, there were 36,483 diagnosed cases of influenza during the 2019-2020 influenza season in Arizona including 5 pediatric deaths and 5,717 total deaths due to influenza and pneumonia; and

WHEREAS, to manage the response to COVID-19 and the upcoming influenza season and ensure public health resources are allocated responsibly, it is necessary to collect influenza-specific data in addition to COVID-19 data; and

WHEREAS, collecting influenza-specific hospitalization data will aid public health and the healthcare system to more timely identify and address healthcare system concerns that may arise with concurrent surges in influenza and COVID-19; and

WHEREAS, the Arizona Department of Health Services requires continued robust and accurate data to successfully combat the COVID-19 pandemic through specimen testing; and

WHEREAS, pursuant to A.R.S. § 36-664, communicable disease-related information is confidential and prohibited from release except in specific circumstances when the information can be released, such as when authorized by state or federal law and provides that a person to whom communicable disease related information is disclosed shall not disclose the information to another person except as authorized by A.R.S. Title 36, Chapter 6, Article 4; and

WHEREAS, 42 U.S.C. § 241(a) provides that the Secretary of HHS shall promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical impairments; and

WHEREAS, 45 Code of Federal Regulations ("C.F.R.") § 164.501 provides a public health authority is an agency or authority of the United States, a State, or a person or entity acting under a grant of authority from or contract with such public agency, that is responsible for public health matters as part of its official mandate; and

WHEREAS, the CDC is a public health authority as defined in 45 C.F.R. § 164.501; and

WHEREAS, pursuant 45 C.F.R. § 164.512(b), public health authorities are authorized to collect and receive protected health information for the purpose of preventing or controlling disease, injury, or disability and the conduct of public health surveillance, public health investigations, and public health interventions; and

WHEREAS, pursuant to A.R.S. § 36-782(A), the Governor, in consultation with the Director of the Arizona Department of Health Services, has the authority to issue an Enhanced Surveillance Advisory, if the Governor has reasonable cause to believe that an illness or health condition caused by a pandemic disease has or may occur; and

WHEREAS, pursuant to A.R.S. § 36-782(B), as determined by the Governor after considering the least restrictive measures necessary that are consistent with public health and safety, an Enhanced Surveillance Advisory shall direct the following:

(1) Those persons and entities required to report;

(2) The clinical syndromes, any illness or health condition that may be associated with a specific illness or health care conditions to be reported;

(3) Patient tracking;

(4) Information sharing; and

(5) Specimen testing coordination; and

WHEREAS, pursuant to A.R.S.§ 36-782, the Director of the Arizona Department of Health Services has notified local health authorities about the Governor's intent to issue this Enhanced Surveillance Advisory or if because of an immediate threat to public health the Arizona Department of Health Services and local health authorities are not able to hold a meeting before the Governor issues the Enhanced Surveillance Advisory, the meeting must take place within seventy-two hours after the Governor issues the Enhanced Surveillance Advisory, and the Arizona Department of Health Services has committed to complying with this requirement; and

WHEREAS, pursuant to A.R.S. § 36-782(E), to the extent possible, the Arizona Department of Health Services 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 Enhanced Surveillance Advisory; and

WHEREAS, pursuant to A.R.S. § 36-783(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 and any additional information specified in an Enhanced Surveillance Advisory; and

WHEREAS, pursuant to A.R.S. § 36-783, reports required by an Enhanced Surveillance Advisory must be in writing or by any method directed by the Arizona Department of Health Services or local public health authority, and must be submitted within twenty-four hours after identifying the reportable circumstance; all persons required to report pursuant to an Enhanced Surveillance Advisory must cooperate with the Arizona Department of Health Services and a local health authority in effecting the Enhanced Surveillance Advisory, and failure to report pursuant to an Enhanced Surveillance Advisory is an act of unprofessional conduct; and

WHEREAS, pursuant to A.R.S. § 36-783(E), the Arizona Department of Health Services and a local public health authority shall maintain as confidential:

(1) Any information or a particular part of information provided pursuant to the Enhanced Surveillance Advisory that, if made public, would divulge the trade secrets of a person or business; and

(2) Other information likely to cause substantial harm to the person's or business' competitive position; and

WHEREAS, pursuant to A.R.S. § 36-784(A), during an Enhanced Surveillance Advisory, the Arizona Department of Health Services and local health authorities may access confidential

patient information, including medical records, wherever and by whomever held and whether or not patient identity is known to identify, treat and track persons who may have been exposed to an illness or health condition identified in the Enhanced Surveillance Advisory; and

WHEREAS, pursuant to A.R.S. § 36-784(C), any medical information or other information from which a person might be identified that is received by the Arizona Department of Health Services or a local health authority in the course of an Enhanced Surveillance Advisory is confidential and is not available to the public; and

WHEREAS, pursuant to A.R.S. § 36-786(A), the Arizona State Laboratory shall coordinate specimen testing related to an Enhanced Surveillance Advisory, and if necessary and at State expense for testing specimens; the Arizona Department of Health Services may designate other laboratories to assist it in testing specimens; and

WHEREAS, pursuant to A.R.S. § 36-786(B), the Arizona Department of Health Services shall determine the criteria necessary for private or public laboratories to conduct clinical or environmental testing associated with any illness or health condition subject to an Enhanced Surveillance Advisory; and

WHEREAS, pursuant to A.R.S. § 36-786(C) and during an Enhanced Surveillance Advisory, a public safety authority, if requested by the Arizona Department of Health Services, shall coordinate and provide transportation of clinical or environmental samples to the Arizona State Laboratory or other testing laboratory designated by the Arizona Department of Health Services; and

WHEREAS, pursuant to A.R.S. § 36-787(A), during a state of emergency declared by the Governor in which there is an occurrence or imminent threat of an illness or health condition caused by a pandemic disease that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability, the Arizona Department of Health Services shall coordinate all matters pertaining to the public health emergency response of the State; and

WHEREAS, pursuant to A.R.S. § 36-787(A), during a state of emergency declared by the Governor, the Arizona Department of Health Services has primary jurisdiction, responsibility and authority for:

(1) Planning and executing public health emergency assessment, mitigation, preparedness response and recovery for the 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; and

(5) Organizing public information activities regarding state public health emergency response operations; and

WHEREAS, pursuant to A.R.S. § 36-790(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 Arizona Department of Health Services or local health authority in accordance with A.R.S. Title 36, Chapter 6, Article 9; and

WHEREAS, public release of an individual's personal information gathered by public health including home address can result in a fear of reporting by those potentially infected and decrease the ability of health departments to control outbreaks of communicable diseases; and

WHEREAS, Arizona is committed to containing the spread and reducing the adverse outcomes associated with COVID-19 while maintaining confidential health information; and

WHEREAS, it is necessary and appropriate to take action to ensure that the COVID-19 pandemic is contained and its effects to the healthcare system are minimized to ensure that residents of Arizona remain safe and healthy.

NOW, THEREFORE, I, Douglas A. Ducey, Governor of the State of Arizona, by virtue of the authority vested in me by the Constitution and laws of this state including A.R.S. §§ 26-303 and 36-787, hereby order as follows:

1. The COVID-19 pandemic in Arizona justifies the issuance of an Enhanced Surveillance Advisory pursuant to A.R.S. § 36-782(A) and such advisory is issued by this Executive Order.

2. This Enhanced Surveillance Advisory supersedes reporting requirements set forth in Executive Orders 2020-13, 2020-22(4), 2020-23, 2020-30(10), 2020-37, and 2020-48(3)(6) but all other provisions of these orders are renewed and remain in effect for the duration of this order.

3. Pursuant to the Enhanced Surveillance Advisory and A.R.S. §§ 36-782(B)(1) and (4), 36-783(A), (D) and (F), and 36-787(A), all licensed hospitals as defined in Arizona Administrative Code ("A.A.C.") R9-10-101, excluding Special Hospitals only providing psychiatric services, shall report through EMResource or alternative form to the Arizona Department of Health Services every twenty-four hours:
    - A line list of all COVID-19 confirmed patients containing name, date of birth, gender, race/ethnicity, residential address, phone number, whether the patient was admitted, hospital admission date;
    - If they are operating in conventional, contingency, or crisis care; and
    - The number of non-essential surgeries performed per day.

4. Pursuant to the Enhanced Surveillance Advisory and A.R.S. §§ 36-782(B)(1) and (4), 36-783(A), (D) and (F), and 36-787(A), all licensed hospitals as defined in A.A.C. R9-10-101, excluding Special Hospitals only providing psychiatric services, shall report through EMResource or alternative form to the Arizona Department of Health Services every twenty-four hours:

- Number of inpatient influenza positive patients or patients with suspected influenza;
- Number of ventilators in use by influenza positive patients or patients with suspected influenza;
- Number of ICU beds in use by influenza positive patients or patients with suspected influenza;
- Number of influenza positive patients or patients with suspected influenza seen in the Emergency Department per day.

5. All licensed hospitals as defined in A.A.C. R9-10-101, shall continue to implement plans to ensure sufficient staffing levels to staff every licensed and proposed surge intensive care unit and medical surgical bed. Licensed hospitals shall attest to the Arizona Department of Health Services through an approved method that they meet the requirements of this section.

6. Pursuant to the Enhanced Surveillance Advisory and A.R.S. §§ 36-782(B)(1) and (4), 36-783(A), (D) and (F), and 36-787(A), all Nursing Care Institutions as defined in A.R.S. § 36-401(34), Specialty Hospitals providing Long Term Acute Care as defined in A.A.C. R9-10-101(216), Hospice Inpatient Facilities as defined in A.A.C. R9-10-101(108), Behavioral Health Inpatient Facilities as defined in A.A.C. R9-10-101(31), Assisted Living Centers as defined in A.R.S. § 36-401(8), Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID) as defined by A.R.S. § 36-401(29), Medical Group Homes for the Individuals with Developmental Disabilities as defined by A.R.S. § 36-401(29), Home Health Agencies as defined by A.A.C. R9-10-101(104), and Recovery Care Centers as defined in A.R.S. § 36-448.51 shall report through the Post Acute Care Capacity Tracker (PACCT) or alternative form to the Arizona Department of Health Services every twenty-four hours:
    - Number of COVID-19 positive residents requiring isolation;
    - Ability to accept new COVID-19 admissions that day;
    - Current admission criteria related to COVID-19;
    - Number of beds available; and
    - Number of beds available to new admissions with active or previous COVID-19.

7. A licensed hospital as defined in A.A.C. R9-10-101, excluding Special Hospitals only providing psychiatric services, shall report through EMResource or some other approved method the following to the Arizona Department of Health Services within one week of this Executive Order:
    - Number of current licensed med-surg beds;
    - Number of current licensed ICU beds;
    - Number of additional identified ICU beds pursuant to Executive Order 2020-16;
    - Number of additional identified med surg beds pursuant to Executive Order 2020-16;
    - Number of additional med-surg beds pursuant to this order; and

- Number of additional ICU beds pursuant to this order.

8. All Nursing Care Institutions as defined in A.R.S. § 36-401(34), Specialty Hospitals providing Long Term Acute Care as defined in A.A.C. R9-10-101(216), Hospice Inpatient Facilities as defined in A.A.C. R9-10-101(108), Behavioral Health Inpatient Facilities as defined in A.A.C. R9-10-101(31), Assisted Living Centers as defined in A.R.S. § 36-401(8), Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID) as defined by A.R.S. § 36-401(29), Medical Group Homes for the Individuals with Developmental Disabilities as defined by A.R.S. § 36-401(29), Home Health Agencies as defined by A.A.C. R9-10-101(104), and Recovery Care Centers as defined in A.R.S. § 36-448.51 shall:
    - Update the Post Acute Care Capacity Tracker (PACCT) for potential participation in interfacility transfer of patients with suspected or confirmed COVID-19 outside of their healthcare system;
    - Accept and transfer patients as directed by the Arizona Surge Line, when clinically appropriate and resources allow;
    - Create internal protocols to complete the bed placement within thirty minutes; and
    - Electronically update bed and ventilator status in a format and frequency specified by the Arizona Department of Health Services.

9. Pursuant to the Enhanced Surveillance Advisory, a hospital, as defined in Arizona Administrative Code R9-10-101, shall report the following through EMResource or alternative form to the Arizona Department of Health Services every twenty-four hours:
    - Per day staff call out;
    - Number of ventilators in use;
    - Number of ventilators available for use;
    - Number of ECMOs in use;
    - Number of ECMOs available for use;
    - Number of ICU beds in use;
    - Number of ICU beds available for use;
    - Number of inpatient beds in use;
    - Number of inpatient beds available for use;
    - Number of ED beds in use;
    - Number of ED beds available for use;
    - Medical supply and equipment shortage (medications, fluids, O2 tanks, sanitizer, ECMO circuits, etc.);
    - Description of triage process currently established;
    - Number of inpatient COVID-19 positive patients or patients with suspected COVID-19;
    - Number of ventilators in use by COVID-19 positive patients or patients with suspected COVID-19;
    - Number of ICU beds in use by COVID-19 positive patients or patients with suspected COVID-19;

- Number of COVID-19 positive patients or patients with suspected COVID-19 discharged from the facility per day;
- Number of COVID-19 positive patients or patients with suspected COVID-19 seen in the Emergency Department per day;
- Number of intubations performed per day for respiratory distress;
- Estimated number of N95 masks used per day;
- Estimated number of surgical masks used per day;
- Estimated number of face shields used per day;
- Estimated number of surgical gowns used per day;
- Estimated number of goggles used per day;
- Total number of total new admissions per day;
- Total number of new COVID-19 positive or suspect admissions per day;
- Total number of new ICU admissions per day;
- Total number of ICU discharges per day;
- Total number of COVID-19 positive or suspect ICU admissions per day;
- Total number of COVID-19 positive or suspect ICU discharges per day;
- Total number of extubations/individuals weaned off of ventilators per day;
- Total number of direct care staff per day;
- Number of days of PPE inventory on hand in the following categories:
    - 0 days;
    - 1-3 days;
    - 4-14 days;
    - 15-30 days; or
    - 30+ days;
- Total number of all staffed inpatient and outpatient beds in your hospital, including all overflow and surge/expansion beds used for inpatients and for outpatients (includes all ICU beds);
- Number of patients currently hospitalized in an inpatient bed with onset of suspected or confirmed COVID-19 fourteen or more days after hospital admission due to a condition other than COVID-19;
- Number of patients with suspected or confirmed COVID-19 who currently are in the Emergency Department (ED) or any overflow location awaiting an inpatient bed;
- Number of patients with suspected or confirmed COVID-19 who currently are in the ED or any overflow location awaiting an inpatient bed and on a mechanical ventilator; and
- Number of patients with suspected or confirmed COVID-19 who died in the hospital, ED, or any overflow location on the date for which you are reporting.

10. Nursing Care Institutions, ICF-IID and DD Medical Group Homes shall report through EMResource or alternative form to the Arizona Department of Health Services every twenty-four hours:
    - Number of COVID-19 positive residents requiring isolation;
    - Current admission criteria related to COVID-19;

- Number of beds available to new admissions with COVID-19;
- Number of days of PPE Inventory on hand in the following categories:
    - 0 days;
    - 1-3 days;
    - 4-14 days;
    - 15-30 days; or
    - 30+ days.

11. Pursuant to the Enhanced Surveillance Advisory, a laboratory as defined in A.R.S. § 36-451(4) shall report all COVID-19 test results by name (positive and negative) to the Arizona Department of Health Services in an electronic format as follows:
    - For laboratories reporting to the Arizona Department of Health Services through electronic lab reporting ("ELR"), results of all COVID-19 tests.
    - For laboratories not reporting to the Arizona Department of Health Services through ELR, in an Arizona Department of Health Services approved flat file format to a secure FTP site or secure email as outlined in guidance at https://www.azdhs.gov/preparedness/epidemiology-disease-control/infectious-disease-epidemiology/index.php#novel-coronavirus-lab-resources.
    - For each specimen the report shall include:
        1. The name and address of the laboratory;
        2. The name and telephone number of the director of the clinical laboratory;
        3. The name and, as available, the address, telephone number, and email address of the subject;
        4. The date of birth of the subject;
        5. The gender of the subject;
        6. The laboratory identification number;
        7. The specimen type;
        8. The date of collection of the specimen;
        9. The date of the result of the test;
        10. The type of test completed on the specimen;
        11. The test result, including quantitative values and reference ranges, if applicable; and
        12. The ordering health care provider's name, address, telephone number, and, if available, email address.

12. Pursuant to the Enhanced Surveillance Advisory, the following COVID-19 specimen testing shall be coordinated:
    a. The Arizona State Public Health Laboratory shall coordinate specimen testing relating to COVID-19;
    b. The Arizona Department of Health Services shall determine the criteria necessary for private or public laboratories to conduct clinical or environmental testing associated with COVID-19; and
    c. If requested by the Arizona Department of Health Services or a local health authority, a public safety authority shall coordinate and provide transportation of

clinical or environmental samples to the Arizona State Laboratory or other testing laboratory designated by the Arizona Department of Health Services.

d. A clinical or commercial lab shall submit an isolate or specimen for sequencing to the Arizona State Public Health Laboratory as applicable, only by request

14. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

15. The orders contained herein may be revised at any time by the Director of the Arizona Department of Health Services and shall automatically terminate after sixty (60) days, unless renewed.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Arizona.

Douglas A. Ducey

GOVERNOR

DONE at the Capitol in Phoenix on this tenth day of November in the year Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fifth.

ATTEST:

Secretary of State