GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

EXECUTIVE ORDER

Executive Order 2020-35

Reporting by Nursing Care Institutions, Residential Care Institutions, ICF-IIDs and DD Medical Group Homes To Residents and Families Regarding COVID-19

WHEREAS, on March 11, 2020, in response to the global COVID-19 pandemic, I issued a Declaration of Public Health Emergency; and

WHEREAS, as of May 4, 2020, there were 8,919 total confirmed cases and 362 total deaths within Arizona related to COVID-19, and the situation continues to evolve with person-to-person transmission and continued transmission in the community; and

WHEREAS, COVID-19, a communicable disease, may affect a greater percentage of the population than, for example, seasonal influenza because of the novel nature of the disease and the lack of immunity to the disease within the population; and

WHEREAS, pursuant to Arizona Revised Statutes ("A.R.S.") § 36-664, communicable disease related information is confidential; and

WHEREAS, A.R.S. § 36-664 prohibits the release of communicable disease-related information but also provides for specific circumstances when such information can be released such as when authorized by state or federal law; and

WHEREAS, A.R.S. § 36-784(C) states, "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"; 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 disease; and

WHEREAS, Nursing Care Institutions, Residential Care Institutions, Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF-IID) and Developmental Disability Medical Group Home settings pose a higher risk for the transmission and severe outcomes associated with COVID-19 due to the comorbidities that residents of these settings present being the homes for some of our most vulnerable populations; and

WHEREAS, having access to information regarding COVID-19 in congregate care settings would be useful to current and prospective residents, their next of kin and guardians in decision making and taking additional precautions to avoid contracting the virus; and

WHEREAS, pursuant to A.R.S. § 26-303(E)(1), 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 powers vested in the State by the Constitution and laws of this State; and

WHEREAS, although COVID-19 health information is confidential and must be protected such must also be balanced against the ability of individuals who are at risk of exposure to protect themselves while ensuring that any dissemination is limited to the minimum necessary for protecting those impacted.

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 the State, including but not limited to A.R.S. §§ 26-303 and 36-787, and after consultation with the Director of the Arizona Department of Health Services, do hereby order:

1. Health Care Institutions licensed as Nursing Care Institutions, Residential Care Institutions, ICF-IIDs, and Medical Group Homes for Individuals with Developmental Disabilities shall:
    a. Report to current residents of congregate settings, next of kin and guardians the number of diagnosed cases and deaths due to COVID-19 occurring within the population of the facility within 24 hours of confirming such information, and provide regular updates on their activities to keep residents safe to residents, next of kin and guardians; and

    b. Upon receipt of a completed application to a congregate setting and a request from a prospective resident, their next of kin or guardian, report the number of cases and deaths due to COVID-19 occurring within the population of the congregate setting to the prospective resident, their next of kin and any guardian; and

    c. Upon acceptance of the transfer of a resident into their congregate setting and upon request from the transferee, but before the transfer is completed, report to the transferring resident, their next of kin and any guardian, the number of cases and deaths due to COVID-19 occurring within the population of the congregate setting.

2. The Arizona Department of Health Services shall provide technical assistance to congregate settings to facilitate the communication of the information to residents, their next of kin, or guardians.

3. Information provided through this order shall only be used for the purposes of individual decision making by residents, potential residents, next of kin and guardians. Such information shall not be used or disclosed for any other reason.

4. This executive order shall expire upon the termination of the Declaration of Public Health Emergency related to COVID-19 dated March 11, 2020.

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

GOVERNOR

DONE at the Capitol in Phoenix on this fourth day of May in the Year Two Thousand and Twenty and of the Independence of the United States of America the Two Hundred and Forty-Fourth.

ATTEST:

Secretary of State