GOVERNOR DOUGLAS A. DUCEY

STATE OF ARIZONA

EXECUTIVE ORDER

Executive Order 2020-48

Enhanced Surveillance Advisory
Slowing the Spread of COVID-19

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, 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, on May 12, 2020, Executive Order 2020-36, *Stay Healthy, Return Smarter, Return Stronger,* was issued outlining requirements for businesses to assist in mitigating the spread of COVID-19 as they reopened and mandated that businesses adopt policies consistent with guidance from the CDC and the ADHS; and

WHEREAS, as of July 9, 2020, there have been 112,671 diagnosed cases of COVID-19 in Arizona including 2,038 deaths, and the State is seeing an increase in the number of cases in every county and an increase in hospitalizations in each region of the State; and

WHEREAS, the increased case numbers and hospitalizations also necessitate the need for an increased focus on precautionary measures by both businesses and individuals; and

WHEREAS, increased hospital census requires more timely ability to discharge patients to appropriate levels of post-acute care; and

WHEREAS, there has not been sufficient time for mask mandates and limiting groups to have a demonstrable effect on containing the spread and additional measures need to be taken to ensure quicker containment; and

WHEREAS, it is necessary to impose additional measures to protect public health and safety and mitigate the strain on our health care providers by slowing the spread of COVID-19; and

WHEREAS, the Arizona Department of Health Services requires more robust and accurate data and more resources 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

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, 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(C), 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; and

WHEREAS, pursuant to A.R.S. § 36-782(D), 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 with representatives of persons and institutions who will be affected by an Enhanced Surveillance Advisory 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 such meeting may be held by any means feasible given the circumstances; 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(D), reports required pursuant to 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. § 36-783(F), a local health authority shall immediately notify the Arizona Department of Health Services of any reports received during the period of an Enhanced Surveillance Advisory; and

WHEREAS, pursuant to A.R.S. § 36-784(A), during an Enhanced Surveillance Advisory, to identify, treat and track persons who may have been exposed to an illness or health condition identified in the 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 identify is known; 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, COVID-19 health information is confidential and must be protected, and any dissemination is limited to the minimum necessary for protecting those impacted; 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; and

WHEREAS, it is necessary and appropriate to take action to ensure that the COVID-19 pandemic is contained to ensure that residences 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) and 2020-37 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 and suspect patients containing name, date of birth, gender, race/ethnicity, 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 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.

5. All licensed hospitals as defined in A.A.C. R9-10-101, excluding Special Hospitals only providing psychiatric services, shall update their plans to ensure capability to increase their intensive care unit and medical surgical bed capacity by 50% as required by Executive Order 2020-16 by July 17, 2020 consistent with the following:
    - A.A.C. R9-10-203(C)(5);
    - A.A.C. R9-10-204(B)(1)(e);
    - A.A.C. R9-10-214(C)(4); and
    - A.A.C. R9-10-232.

6. All licensed hospitals as defined in A.A.C. R9-10-101, shall develop and implement plans to ensure sufficient staffing levels to staff every licensed and proposed surge intensive care unit and medical surgical bed by July 17, 2020. Licensed hospitals shall attest to the Arizona Department of Health Services through an approved method that they meet the requirements of this section.

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. A licensed hospital as defined in A.A.C. R9-10-101 shall identify and report the name and contact information of an assigned liaison to ADHS to facilitate Quality Check(s) of EMResource data to ensure reporting that is accurate and in line with the intent of previous Executive Orders by July 13, 2020. Requests for quality checks must be accommodated with the ADHS within 72 hours of the original request. Facilities shall also allow representatives of the Arizona Department of Health Services onsite to validate reported data.

9. 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:
    a. 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;
    b. Accept and transfer patients as directed by the Arizona Surge Line, when clinically appropriate and resources allow;
    c. Create internal protocols to complete the bed placement within thirty minutes; and

d. Electronically update bed and ventilator status in a format and frequency specified by the Arizona Department of Health Services.

10. The Arizona Department of Health Services shall develop admission and transfer criteria to ensure the patients are safely discharged from a licensed acute care hospital as defined in A.A.C. R9-10-101 and admitted or readmitted to a 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.

11. The Arizona Department of Insurance, in conjunction with the Arizona Department of Health Services, shall require that all insurers regulated by the State cover COVID-19 transfer and treatment to and from all hospitals, healthcare institutions, or alternate care sites designated by the Arizona Department of Health Services at in-network rates without regard to whether the facility is in-network if the patient's transfer is facilitated by the Arizona Surge Line. Transfer and treatment shall be covered on the basis of admission date, and in-network coverage for treatment shall remain in place for the duration of a patient's admission facilitated by the Arizona Surge Line, including in the event that the COVID-19 Declaration of Public Health Emergency is terminated prior to patient discharge.

12. The Arizona Department of Insurance, in conjunction with the Arizona Department of Health Services, shall require that all insurers regulated by the State approve COVID-19 discharges to a post acute healthcare institution or alternate care site facilitated by the Arizona Surge Line within 24 hours of determination of transfer placement.

13. A licensed hospital as defined in A.A.C. R9-10-101 that provides pediatric services as defined in A.A.C. R9-10-201(29) shall accept admissions for patients up to 26 years of age, with the exception of labor and delivery admissions.

14. Counties, within 72 hours of notice from a healthcare institution, will appoint a Public Fiduciary to provide guardianship, conservatorship, and decedent services for vulnerable adults when no other person, agency or corporation is qualified and able to serve. The Public Fiduciary will assist with the discharge and admission of that vulnerable adult to the appropriate healthcare institution or discharge environment within 3 days.

15. 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.

16. 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.

GOVERNOR

DONE at the Capitol in Phoenix on this ninth day of July 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