


**IAHA** *IAHA QUARTERLY LECTURE:*  
Responding to Pandemics:  
Legal and Clinical Issues

# PANDEMIC

Thursday, March 26, 2020  
8:30am - 9:45am



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**IAHA**



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## RESPONDING TO PANDEMICS: Legal and Clinical Issues

- **National Public Health Emergency**
  - On January 31<sup>st</sup> Health and Human Services (HHS) Secretary Alex Azar declared a national public health emergency.
  - The emergency declaration of the HHS authorizes additional resources, enhanced federal powers, inter-jurisdictional coordination, and waivers of specific regulations.
- **Illinois Emergency Decree**
  - On March 9, 2020 Governor Pritzker issued an emergency decree.
- **National Emergency Declaration**
  - On March 13, 2020 President Trump declared a state of emergency under the National Emergencies Act and the Stafford Act.

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This session brings together the perspectives of public health officials, lawyers, and clinicians to answer questions such as:

- How are public health systems around the globe and in the United States responding to the COVID-19 pandemic?
- What laws and regulations are applicable in a pandemic disease outbreak?
- What rights do people infected with pandemic diseases have in regard to their privacy and treatment?
- What healthcare laws are involved and guidance has been issued to interpret these laws in a pandemic.

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## Panelists

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**Dr. Allison Arwady, MD, MPH**, is the acting commissioner at the Chicago Department of Public Health (CDPH). She has been at CDPH for four years in the role of chief medical officer, overseeing the disease control, environmental health, emergency preparedness, and behavioral health divisions.



**Julia Dimoff, JD, MSW**, is an Assistant General Counsel with the Cook County Health ("CCH") Office of the General Counsel. Ms. Dimoff represents a number of health system clients such as its Health Plan Services, the Medical Staff of John H. Stroger Hospital, Cermak Health Services in the County Jail, and the Cook County Department of Public Health, a CCH affiliate and state-certified local health department.



**Stephen Murphy** is an attorney at the Chicago Department of Public Health (CDPH), where he focuses his practice on public health law and data privacy. He provides legal counsel to the Office of the Commissioner, leads the CDPH Compliance Office and is the HIPAA Privacy Officer for the City of Chicago. He is also a member of the CDPH Institutional Review Board.



**Dave Slade, MD, JD**, is currently an Assistant Professor of Infectious Diseases at Loyola University Medical Center and Hines VA Hospital. He received his MD and JD from Southern Illinois University, where he focused on health law and health policy. He serves on the infection control and prevention committee at Loyola, is the medical director of the outpatient parenteral antimicrobial therapy program, and serves on the antibiotic stewardship committees at Loyola and Hines VA.

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**Allison Arwady, MD**, is the acting commissioner at the Chicago Department of Public Health (CDPH). She has been at CDPH for four years in the role of chief medical officer, overseeing the disease control, environmental health, emergency preparedness, and behavioral health divisions. Prior to CDPH, she worked for the CDC, with a focus on disease outbreak response including Ebola, and at the Illinois Department of Public Health. She completed medical school and clinical training at Yale University, and is a board-certified internal medicine physician and pediatrician. She continues to see primary care patients weekly and is particularly interested in using data to promote health equity in Chicago.

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**Julia Dimoff**, JD, MSW, is an Assistant General Counsel with the Cook County Health ("CCH") Office of the General Counsel. Ms. Dimoff represents a number of health system clients such as its Health Plan Services, the Medical Staff of John H. Stroger Hospital, Cermak Health Services in the County Jail, and the Cook County Department of Public Health, a CCH affiliate and state-certified local health department. A former Cook County Assistant State's Attorney, she practiced in, among other areas, Health Law and Transactions Units, where she developed a legally-compliant template to enforce orders for quarantine, isolation, and closure. She also provided trainings to the Cook County Department of Emergency Management and Regional Security (formerly the Cook County Department of Homeland Security and Emergency Management) and the Circuit Court of Cook County to ensure compliance with public health and privacy laws during the Ebola epidemic in 2014.

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**Stephen Murphy** is an attorney at the Chicago Department of Public Health (CDPH), where he focuses his practice on public health law and data privacy. He provides legal counsel to the Office of the Commissioner, leads the CDPH Compliance Office and is the HIPAA Privacy Officer for the City of Chicago. He is also a member of the CDPH Institutional Review Board. Prior to joining CDPH, Stephen was director of risk management for a 100-bed community hospital in Chicago. Stephen has a law degree from Loyola University Chicago School of Law and is an active member of the Illinois bar.

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**Dave Slade, MD** is currently an Assistant Professor of Infectious Diseases at Loyola University Medical Center and Hines VA Hospital. He received his MD and JD from Southern Illinois University, where he focused on health law and health policy. He completed internal medicine residency and infectious disease fellowship at Loyola prior to joining as faculty. He serves on the infection control and prevention committee at Loyola, is the medical director of the outpatient parenteral antimicrobial therapy program, and serves on the antibiotic stewardship committees at Loyola and Hines VA.

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## COVID-19

### **Dave Slade, MD**

Assistant Professor of Infectious Diseases at  
Loyola University Medical Center and Hines VA  
Hospital

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## WHO Regions



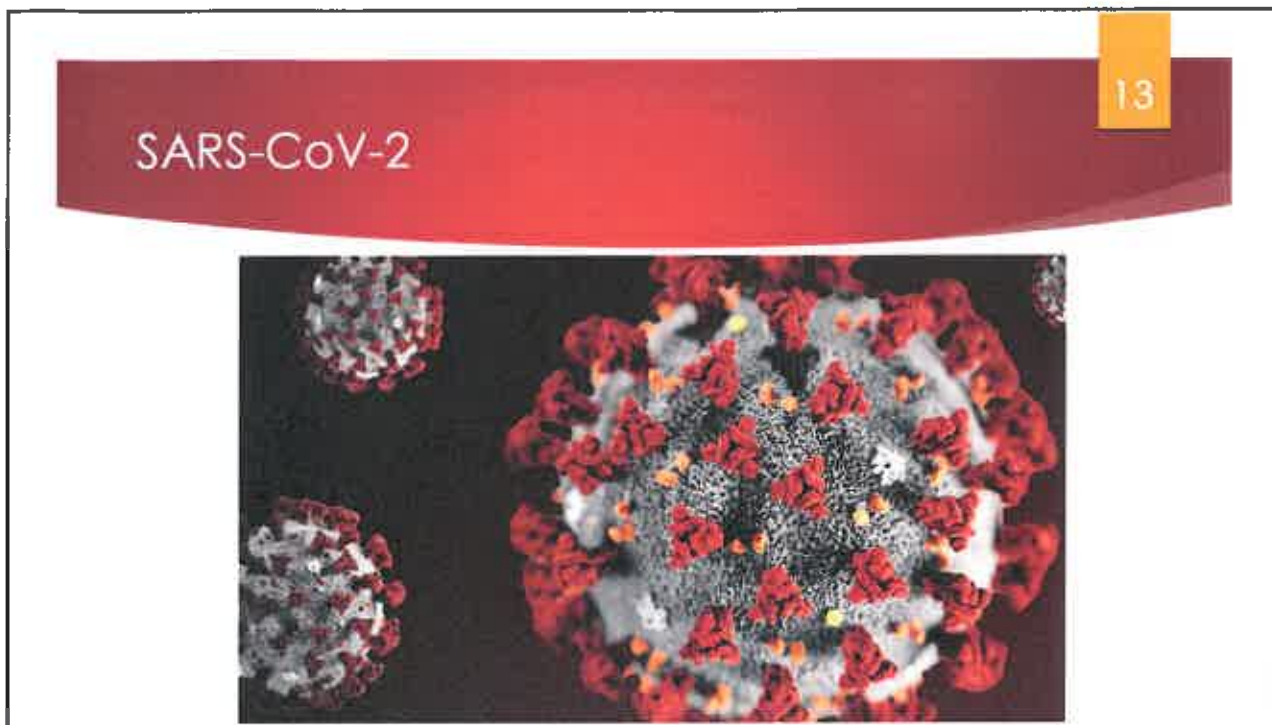
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## WHO Pandemic Phases

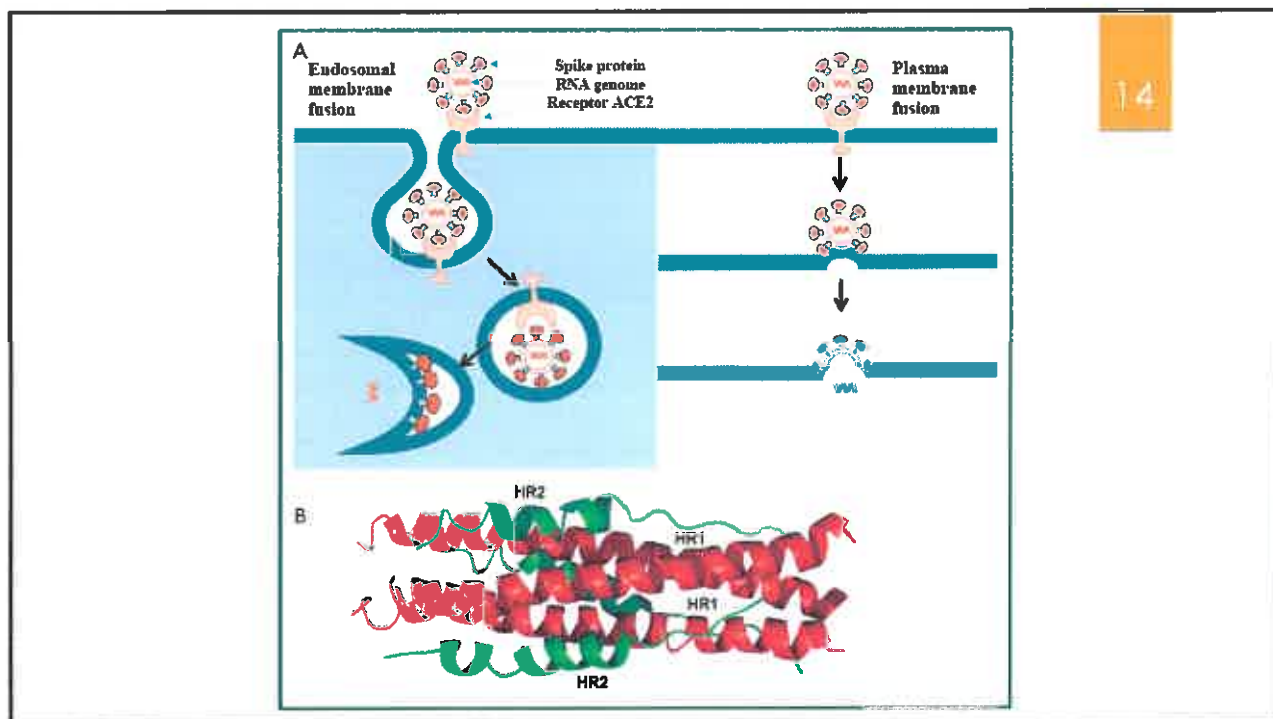
- ▶ Phase 1: the infection is limited to animals
- ▶ Phase 2: isolated human cases have been reported
- ▶ Phase 3: small clusters of cases have occurred in humans
- ▶ Phase 4: sustained community level outbreaks
- ▶ Phase 5: widespread human-to-human spread of the virus into at least two countries in one WHO region
- ▶ Phase 6, the pandemic phase: community level outbreaks in at least one other country in a different WHO region

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Pangolin



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This slide features a red header with the word "Pangolin" in white text. To the right of the header is a small orange box containing the number "15". Below the header is a photograph of a pangolin, a mammal covered in protective scales, resting on the ground in a natural, wooded environment.

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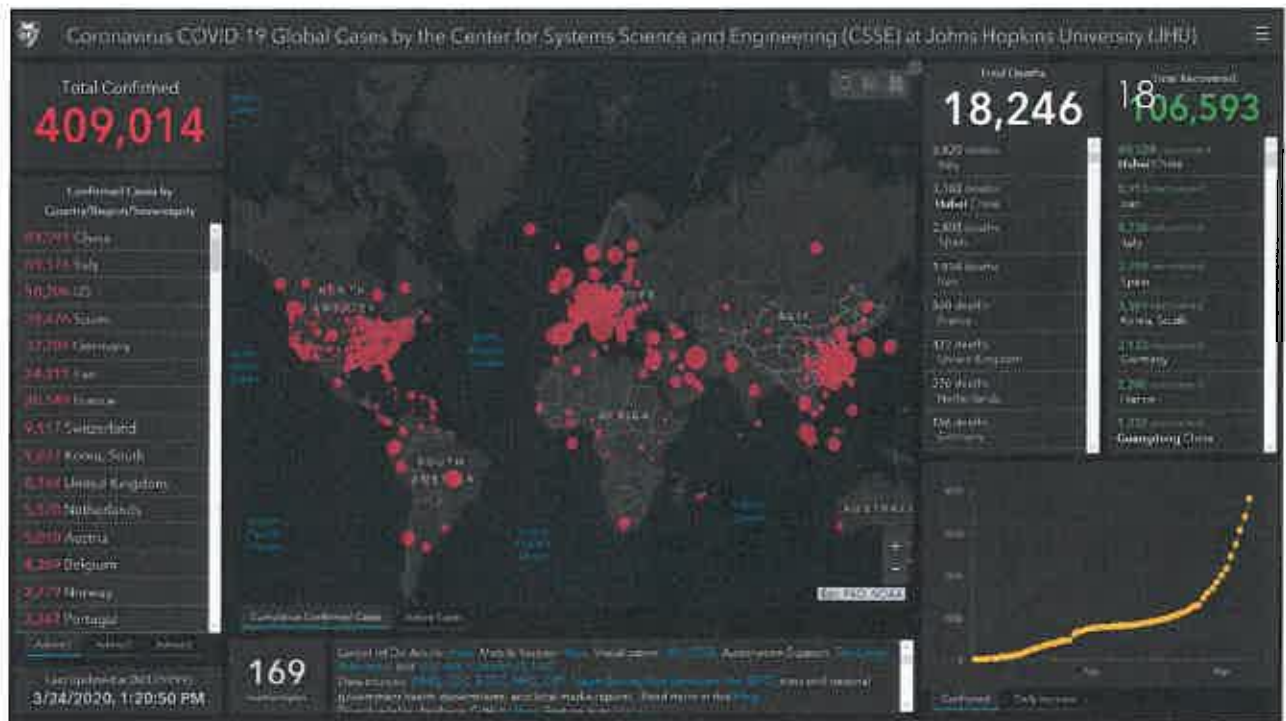
This slide shows a close-up of a woman's face wearing a white surgical-style face mask. The background is a composite of various virus particles, some in red and blue, and others in a glowing cyan color, set against a dark background. The number "16" is visible in the upper right corner of the image area.

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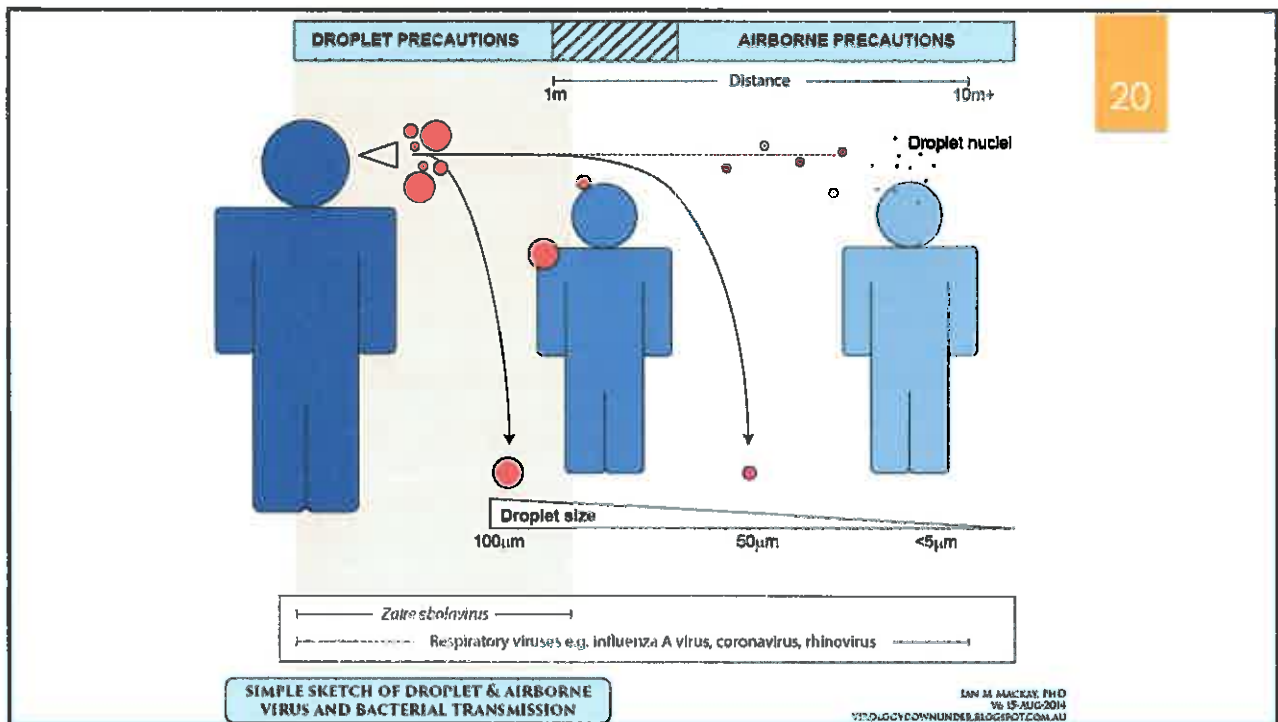
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<b>CONTACT + DROPLET + EYE PROTECTION PRECAUTIONS</b>	<b>ELEVATED PRECAUTIONS FOR AEROSOL <sup>21</sup> GENERATING PROCEDURES</b>
<b>NO VISITORS WITHOUT PRIOR APPROVAL</b>	
<div style="display: flex; justify-content: space-between;"> <div style="background-color: #ffff00; padding: 5px; font-weight: bold;">Keep Door Closed</div>  <div style="background-color: #ffff00; padding: 5px; font-weight: bold;">Keep Door Closed</div> </div> <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="text-align: center;">  <p>Wash hands upon entering Use sanitizer or soap &amp; water</p> </div> <div style="text-align: center;">  <p>Wear an isolation Gown &amp; Gloves when entering</p> </div> <div style="text-align: center;">  <p>Wear a Regular Face Mask</p> </div> </div>	<p>EXAMPLES INCLUDE OBTAINING NASAL OR ORAL PHARYNGEAL SWABS, ADMINISTERING NEBULIZER, BIPAP, CPAP, NONINVASIVE HEATED HIGH FLOW NASAL CANNULA DEVICES, INTUBATION</p> <div style="display: flex; justify-content: space-around; align-items: center;"> <div style="text-align: center;">  <p>Wear a N95 <b>AND</b> Face Shield <b>OR</b> a PAPR</p> </div> <div style="text-align: center;">  </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="background-color: #008000; color: white; padding: 5px; font-weight: bold;">Keep Door Closed</div> <div style="text-align: center;">  </div> <div style="background-color: #008000; color: white; padding: 5px; font-weight: bold;">Keep Door Closed</div> </div>
<b>ONLY STAFF NECESSARY FOR CARE ALLOWED ENTRY TO ROOM</b> Remove gown, gloves, face mask and wash your hands upon leaving the patient's room	<b>ONLY STAFF NECESSARY FOR PROCEDURE TO BE IN ROOM</b>

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# Chicago Department of Public Health (CDPH)

Allison Arwady, MD, Commissioner  
Stephen Murphy, JD




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## Chicago Department of Public Health

- Overview of CoVID19 response from Dr. Arwady
- The changing landscape of the outbreak and response
- Police powers and social distancing measures
  - Chicago's shelter in place for ill individuals order
  - Chicago's hospital order mandating additional reporting of data and conservation of PPE
  - Chicago's readiness for isolation and quarantine

  
Chicago Department of Public Health

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## Legal Considerations

**Julia Dimoff, JD, MSW**  
Assistant General Counsel, Cook County  
Health Office of the General Counsel

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## Agenda

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- **Legal Considerations**
  - Public Health Law on the Local and State Level
    - Discussion of Applicable Definitions and Law
    - Jurisdictional Issues
    - Court Ordered Petitions for Enforcement by Certified Local Health Departments
  - Overview of Select Legal Topics
    - HIPAA and State Confidentiality Law
  - 1135 Waivers and Legal Requirements as a Result of COVID-19 Pandemic
    - Broad Waivers
    - Case by-Case Waiver Submission by HFS

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## Key State and Local Public Health Laws

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- **State**
  - Illinois Public Health Act (20 ILCS 2305/1.1 et seq.)
  - Illinois Department of Public Health Powers and Duties Law (20 ILCS 2310/2310-15 et seq.)
  - Illinois Communicable Disease Report Act (745 ILCS 45/1)
  - Illinois Administrative Code
    - Illinois Control of Communicable Diseases Code (77 Ill. Adm. Code 690.10 et seq.)
  - IDPH Emergency Rules <http://www.idph.state.il.us/rulesregs/rules-indexhome.htm>
  - Illinois Emergency Management Agency Act
- **Local**
  - Local Ordinances [https://www.municode.com/library/il/cook\\_county/code\\_of\\_ordinances](https://www.municode.com/library/il/cook_county/code_of_ordinances)
    - Chapter 38, Article II. Board of Health Ordinance
  - Cook County Department of Public Health Rules  
<http://www.cookcountypublichealth.org/public-health-laws>

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## State and Local Authority

- Illinois Department of Public Health ("IDPH")
  - IDPH has **supreme authority** in matters of quarantine and isolation, and may declare and enforce quarantine and isolation when none exists, and may modify or relax quarantine and isolation when it has been established.
- IDPH has delegated its powers to issue Quarantine, Isolation, and Closure Orders to Certified Local Health Department ("CLHDs")
  - A local health authority that is certified pursuant to the Certified Local Health Department Code
  - 5 in CLHDs in Cook County Department of Public Health ("CCDPH"), Chicago, Evanston, Skokie, Stickney
  - CCDPH has jurisdiction in Cook County, except within the bounds of the City of Chicago where the Chicago Department of Health has jurisdiction – Example, John H. Stroger Hospital of Cook County
- ▶ Citations: Department of Public Health Act [20 ILCS 2305/2]; Part 690 Control of Communicable Diseases Code - 77 Ill. Adm. Code 690.10 Definitions; 77 Ill. Adm Code 690.1305 Department of Public Health Authority; 77 Ill. Adm Code 690.1310 Local Health Authority; 77 Ill. Adm. Code 600 Certified Local Health Department Code.
- ▶ <http://ilga.gov/commission/jcar/admincode/077/07700690sections.html>

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## Evaluation and Mandated Reporting

Person Under Investigation - Symptomatic people who meet CDC's definition of Persons Under Investigation (PU) should be evaluated by healthcare providers in conjunction with local health authorities.

Under IL Law, mandated reporters, such as health care providers, hospitals and laboratories, by law must report suspected or confirmed cases of certain infectious diseases electronically through Illinois' National Electronic Disease Surveillance System (I-NEDSS). If they do not have access to I-NEDSS, they can report by mail, telephone or fax to the local health department or, if no local health department is available, to the Illinois Department of Public Health Division of Infectious Diseases

- ▶ Citations: Part 690 Control of Communicable Diseases Code - 77 Ill. Adm. Code 690.200 Reporting  
<http://ilga.gov/commission/jcar/admincode/077/07700690sections.html>

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## Responsibilities of Health Care Workers

- Every health care provider shall **provide adequate, understandable instruction** to the following persons in control measures designed to prevent the spread of disease:
    - Each patient with a **dangerously contagious or infectious disease** who is under his or her care; and
    - Other persons as appropriate to prevent the spread of disease.
  - Every health care provider shall cooperate with IDPH and CLHD during investigation
  - If a person subject to isolation or quarantine is already in a health care facility, IDPH or the CLHD may direct the facility to hold the person.
  - If a health care facility has grounds to believe that a patient may leave the health care facility without authorization, the health care facility shall **contact IDPH or CLHD immediately** and be prepared to provide IDPH or CLHD with all records and information related to the treatment and management of the person.
- Citations: Part 690 Control of Communicable Diseases Code - Section 690.1320 Responsibilities and Duties of Health Care Providers.

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## Quarantine and Isolation

- Quarantine

**"Quarantine"** – The physical separation and confinement of an individual or **groups of individuals who are or may have been exposed to a contagious disease** or possibly contagious disease and who do not show signs or symptoms. "Quarantine" also includes the definition of "Quarantine, modified."

**"Quarantine, modified"** – A selective, partial limitation of freedom of movement or actions of a person or group of persons who are or may have been exposed to a contagious disease or possibly contagious disease. Modified quarantine is designed to meet particular situations and includes, but is not limited to, the exclusion of children from school, the prohibition or restriction from engaging in a particular occupation or using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission. Any travel outside of the jurisdiction of the local health authority must be under mutual agreement of the health authority of jurisdiction and the public health official or officials who will assume responsibility.

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## Quarantine and Isolation

- **Isolation**
  - **"Isolation"** – The physical separation and confinement of an individual or groups of individuals who are infected or reasonably believed to be infected with a contagious or possibly contagious disease from non-isolated individuals, to prevent or limit the transmission of the disease to non-isolated individuals.
  - **"Isolation, Modified"** – A selective, partial limitation of freedom of movement or actions of a person or group of persons infected with, or reasonably suspected to be infected with, a contagious or infectious disease. Modified isolation is designed to meet particular situations and includes, but is not limited to, the exclusion of children from school, the prohibition or restriction from engaging in a particular occupation or using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission.

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## Types of Orders – Covers Individuals, Groups, and Premises

- Quarantine, Isolation, Closure
- Physical Examination, Testing and Collection of Laboratory Specimens
- Vaccinations, Medications, or Other Treatment
- Observation and Monitoring
- **Citations:** Part 690 Control of Communicable Diseases Code - Section 690.1375 Voluntary Isolation, Quarantine, or Closure; Section 690.1325 Conditions and Principles for Isolation and Quarantine; Section 690.1330 Order and Procedure for Isolation, Quarantine and Closure; Section 690.1380 Physical Examination, Testing and Collection of Laboratory Specimens; Section 690.1385 Vaccinations, Medications, or Other Treatments; Section 690.1390 Observation and Monitoring.

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## Categories of Orders and Notice to IDPH

Orders can be issued on voluntary basis or an immediate (non-voluntary) basis without consent

- **Voluntary**

If the IDPH or CLHD obtains voluntary consent, the consent shall be in writing and shall inform the person or group of persons of the following:

- The terms and duration of the isolation, quarantine, or closure;
- The importance of complying with the order of isolation, quarantine, or closure to protect the public's health;
- That each person has the right to agree or refuse to agree to the order of isolation, quarantine, or closure and to seek a judicial review of the order;
- That for any person who consents to the order of isolation, quarantine, or closure:
  - The order of isolation, quarantine, or closure will not be reviewed by the court unless the person withdraws consent to the order for isolation, quarantine, or closure; and
  - The person shall notify the certified local health department verbally, confirmed in writing immediately, but not later than 24 hours, if the person intends to withdraw consent to the order for isolation, quarantine, or closure; and
  - breach of a consent agreement or revocation of a consent agreement prior to the end of the order of isolation, quarantine, or closure shall subject the person to an involuntary order of isolation, quarantine, or closure.

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## Categories of Orders and Notice to IDPH

- **Immediate**

If immediate (non-voluntary): must LHD needs to demonstrate that it has made documented efforts to obtain voluntary compliance before petitioning the court to enforce order.

- Within 3 hours: LHD must inform IDPH within 3 hours of issuance of any isolation, quarantine or closure order

- Citations: Part 690 Control of Communicable Diseases Code - Section 690.1330 Order and Procedure for Isolation, Quarantine and Closure.

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## Forms of Orders

- IDPH/CLHD may order a person or group of persons to be quarantined or isolated or may order a place to be closed and made off limits to the public on an immediate basis without prior consent or court order if, in the reasonable judgment of IDPH/CLHD, immediate action is required to protect the public from a dangerously contagious or infectious disease.
  - Verbal Order
    - Must be followed up with a written order within 24 hours to remain valid
  - Written Order
    - Within 48 hours, obtain consent from the individual for voluntary compliance with an immediate order or file petition requesting the Court to enforce a Public Health Order
  - Example of Written Order:



- Citations: Part 690 Control of Communicable Diseases Code - Section 690.1330(d) Order and Procedure for Isolation, Quarantine and Closure; Section 690.1330(e) Order and Procedure for Isolation, Quarantine and Closure

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## Petitions to Enforce Public Health Orders (CCDPH, Chicago, State)

- Role the State's Attorney in CCDPH Orders
- Service of Orders by CCDPH
  - At least 24 hours before the hearing
  - Does not require service as traditionally understood
    - Service can be personal service, certified mail or electronic transmission.
    - Individuals must be served notice of any court hearings.
- Notice of Hearing
  - Date and Time of Hearing
  - Grounds and Underlying Facts
  - Statement of right to a Hearing and Representation
  - Section 38-33 of Board of Health Ordinance requires the County to pay reasonable fees for representation of persons who are indigent
- Representation of Person – Usually a private attorney
- Must be filed within 48 hours of CCDPH Order
- Citations: Part 690 Control of Communicable Diseases Code - Section 690.1330 Order and Procedure for Isolation, Quarantine and Closure; Section 690.1365 Service of Isolation, Quarantine, or Closure Order

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## Sample Petition for Enforcement of a Public Health Order

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### Contents



- A statement of the **measures taken** by IDPH or the CLHD to seek **voluntary compliance** or the basis on which IDPH or the CLHD determined that seeking voluntary compliance would create a risk of serious harm;
- A statement **regarding the medical basis** on which isolation, quarantine, or closure is justified (e.g., clinical manifestations; physical examination; laboratory tests, diagnostic tests or other medical tests; epidemiologic information; or other evidence of exposure or infection available to IDPH or CLHD at the time);
  - Attestation that facts in petition are true; generally includes attestation of CLHD Medical Director of medical facts
- A statement that such persons may **refuse examination, medical monitoring, medical treatment, prophylaxis, or vaccination, but remain subject to isolation or quarantine;** and
- A statement that, at **any time** while the isolation, quarantine or closure order is in effect, persons under isolation, quarantine, or closure may **request a hearing to review the isolation, quarantine or closure order**

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## Additional Elements of the Petition to Enforce

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### Burden of Proof

Clear and Convincing Evidence that the public's health and welfare are significantly endangered by a person or a group of persons who are suspected of having, been exposed to, or reasonable believed to be exposed to a dangerously contagious or infectious disease.

### Least Restrictive Means

Isolation or quarantine shall be by the **least restrictive means necessary** to prevent the spread of a dangerously contagious or infectious disease to others consistent with the rules of IDPH or in guidelines issued by the Centers for Disease Control and Prevention, and may include, but is not limited to, confinement to private homes or other public or private premises;

Isolated individuals shall be **confined separately** from quarantined individuals

- Citations: Part 690 Control of Communicable Diseases Code - Section 690.1330 Order and Procedure for Isolation, Quarantine and Closure; Section 690.1325 Conditions and Principles for Isolation and Quarantine

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## Conditions of Isolation and Quarantine

- An individual who is detained in a medical facility, premises or other isolation or quarantine facility shall not conduct himself or herself in a disorderly manner, and shall not leave or attempt to leave such facility or premises until he or she is discharged;
- Isolated or quarantined individuals shall be **released** when IDPH or CLHD determines that the **individuals pose no substantial risk of transmitting a dangerously contagious or infectious disease** that would constitute a serious or imminent threat to the health and safety of others.

• Citations: Part 690 Control of Communicable Diseases Code - Section 690.1325 Conditions and Principles for Isolation and Quarantine

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## Enforcement

- An order issued by IDPH, a CLHD or the circuit court must be enforced (by all local and statewide law enforcement, and all other officers and employees of any political subdivision within the jurisdiction of the CLHD).  
**IDPH or CLHD may request the assistance** of police officers, sheriffs, and all other officers and employees of any political subdivision within the jurisdiction of IDPH or CLHD **to apprehend, hold, transport, quarantine or isolate a person who is subject to an order** if that person is uncooperative or unwilling to adhere to prescribed treatment or medical instruction of IDPH or CLHD.

• Citations: Part 690 Control of Communicable Diseases Code - Section 690.1325 Conditions and Principles for Isolation and Quarantine.

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## Penalties

- A public health order issued by a CLHD is enforced as, and carries the same penalty as an order issued by IDPH directly.
- Any person who knowingly or maliciously disseminates any false information or report concerning the existence of any dangerously contagious or infectious disease in connection with IDPH or CLHD's power of quarantine, isolation and closure or refuses to comply with a quarantine, isolation or closure order is guilty of a Class A misdemeanor. (Section 2(k) of the State Act)

• Citations: Part 690 Control of Communicable Diseases Code - Section 690.1325 Conditions and Principles for Isolation and Quarantine.

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## Confidentiality Laws Triggered in Public Health Cases

- HIPAA Privacy Rule provides for disclosure to public health authority
- Illinois Communicable Disease Report Act (745 ILCS 45/1)  
Reporter and Individual identified in report is Confidential
- Access to Medical or Health Information (77 Ill. Adm. Code 690.1355)  
Medical Records provided by Health provider to IDPH/CLHD  
Medical Records held by Court sealed
- Information Sharing (77 Ill. Adm. Code 690.1405)  
Among IDPH, CLHD, Law Enforcement – shall be restricted to information necessary for the treatment, control of, investigation of, containment of, and prevention of a public health emergency

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## Key Federal Laws

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- **Section 319 of the Public Health Service Act 42 U.S.C. § 247d**
  - Secretary of Health & Human Services determined that COVID -19 was a disease that presents a public health emergency
    - Resulting in the making of grants, entering into contracts, and conducting and supporting investigations into the cause, treatment, or prevention of the disease or disorder
    - Waivers or modifications of certain Medicare, Medicaid, Children's Health Insurance Program (CHIP), and HIPAA requirements to allow for expedient care to individuals and relief to providers are unable to comply with certain statutory requirements are nonetheless reimbursed and exempted from sanctions for noncompliance, absent fraud, or abuse
    - There must also be a Presidential declaration of an emergency or disaster in order to exercise this authority
- **Declaration of a National Emergency March 13, 2020**
  - Section 201 of the National Emergencies Act (50 U.S.C. 1621)
- **501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act")**
  - <https://www.whitehouse.gov/briefings-statements/message-congress-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/>
  - <https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html>
  - <https://www.whitehouse.gov/briefings-statements/letter-president-donald-j-trump-emergency-determination-stafford-act/>

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## 1135 Waivers pursuant to Section 1135 (b) of the Social Security Act, 42 U.S.C. 1320

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- Section 1135 waivers provide a temporary of some healthcare regulatory requirements in the event of a declared disaster or emergency
- Waivers typically terminate at the earlier of either the termination of the emergency period or 60 days from the date the waiver or modification is first published but may be extended

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## Types of Waivers

- **Blanket Waivers v. Case by Case Waivers**
  - Blanket waivers may be issued when CMS has determined that all similarly situated providers in an identified emergency area need such a waiver
  - Case by Case Waivers allow providers or States to request and receive approval for relief on a “case-by-case basis”
    - Any waivers or modifications issued by CMS pertain only to federal requirements. Providers must ensure that any steps they take in accordance with the waivers also comport with state law
      - Illinois Department of Financial and Professional Regulation Variances

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## Blanket Waivers Issued by CMS

- **Licensure and Enrollment**

Providers are now afforded a waiver of the requirement that out-of-state providers be licensed in the state where they provide services as long as they are licensed in another state or are enrolled in Medicare

Expedited handling of any pending or new applications from providers

  - Allows waiver of the application fee (42 C.F.R 424.514), finger-based criminal background checks (42 C.F.R 424.518) and site visit (42 C.F.R 424.517) typically part of the screening requirements

Waives the requirement that providers who order, refer, or prescribe to Medicaid beneficiaries be enrolled with Medicaid;

Suspends revalidation of Medicaid providers, allowing them to remain enrolled;

Allows physicians whose privileges will expire and new physicians to practice before full medical staff/governing body review and approval

Allows non-emergency ambulance suppliers and non-enrolled Non-Emergency Medical Transportation providers to provide services when necessary

  - ▶ *COVID-19 Emergency Declaration Health Care Providers Fact Sheet*  
<https://www.cms.gov/files/document/covid19-emergency-declaration-health-care-providers-fact-sheet.pdf>
  - ▶ *2019-Novel Coronavirus (COVID-19) Medicare Provider Enrollment Relief Frequently Asked Questions (FAQs)*  
<https://www.cms.gov/medicare/coverage/coverage-faq/2019-novel-coronavirus-covid-19-medicare-provider-enrollment-relief-frequently-asked-questions-faqs>
  - ▶ *Provider Notice: Provider Enrollment, Billing, and Payment Changes Prompted by COVID-19*  
<https://www.illinois.gov/hfs/MedicalProviders/notices/Pages/prn200320c.aspx>

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## Blanket HIPAA Waiver

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- Limited Waiver of HIPAA Sanctions and Penalties
  - ▶ COVID-19 & HIPAA Bulletin Limited Waiver of HIPAA Sanctions and Penalties During a Nationwide Public Health Emergency
  - ▶ <https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novelcoronavirus.pdf>
  - ▶ <https://www.hhs.gov/sites/default/files/hipaa-and-covid-19-limited-hipaa-waiver-bulletin-508.pdf>
  - ▶ <https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novel-coronavirus.pdf>

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## Telemedicine

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- Changes with regard to Originating Sites
  - ▶ Ryan Haight Act exception
    - ▶ Provider Notice: Provider Enrollment, Billing, and Payment Changes Prompted by COVID-19  
<https://www.illinois.gov/hfs/MedicalProviders/notices/Pages/pm200320b.aspx>
    - ▶ Medicare Telehealth Frequently Asked Questions (FAQs) March 17, 2020  
<https://edit.cms.gov/files/document/medicare-telehealth-frequently-asked-questions-faqs-31720.pdf>
    - ▶ Medicare Telemedicine Health Care Provider Fact Sheet  
<https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>
    - ▶ COVID-19 Information Page  
<https://www.deaiversion.usdoj.gov/coronavirus.html>
    - ▶ Telehealth Coverage Policies in The Time Of Covid-19 To Date  
<https://www.cchpca.org/sites/default/files/2020-03/CORONAVIRUS%20TELEHEALTH%20POLICY%20FACT%20SHEET%20MAR%2017%202020%203%20PM.pdf>
    - ▶ Emergency Medical Treatment and Labor Act (EMTALA) Requirements and Implications Related to Coronavirus Disease 2019 (COVID-19)  
<https://www.cms.gov/files/document/qso-20-15-hospitalcahemtala.pdf>

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# EMTALA Waiver

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- Options for alternative screening sites
- Obligations when COVID-19 is suspected
- Transfer of COVID-19 cases

▶ *Emergency Medical Treatment and Labor Act (EMTALA) Requirements and Implications Related to Coronavirus Disease 2019 (COVID-19)*  
<https://www.cms.gov/files/document/gso-20-15-hospitalcahemtala.pdf>

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# Case by Case Waivers

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- Illinois HFS Waiver
- ▶ <https://www.medicaid.gov/state-resource-center/disaster-response-toolkit/federal-disaster-resources/?entry=54022>
- ▶ <https://www.medicaid.gov/state-resource-center/disaster-response-toolkit/federal-disaster-resources/?entry=53995>

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**THANK YOU**

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**On behalf of IAHA, IHA, and today's panelists,  
thank you for participating.**

**Please remember to complete the survey that  
will follow at the end of this presentation.**

**The recording of this webinar will be  
posted shortly.**



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**STAY HOME  
STAY HEALTHY**

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