

2016-13

January 2007
Southwest Nebraska Public Health Department

Title 2007 Chapter 1
Prevention of Spread of Communicable Disease, Illness, or Poisoning

001 Scope and Authority

These regulations are enacted pursuant to Neb. Rev. Stat. § 71-501, and 71-1626 *et seq.* and apply to the exercise of authority by the Department to order Directed Health Measures necessary to prevent the spread of communicable disease, illness or poisoning.

Nothing in these regulations precludes the Department from requesting voluntary compliance with beneficial health measures.

Nothing in these regulations precludes the Department from referring a matter covered by these regulations to the State Public Health Department at any time.

002 Definitions

Chief Medical Officer: means the state Chief Medical Officer appointed pursuant to Neb. Rev. Stat. § 81-3201, if the State Public Health Department Director is not a Medical Doctor.

Communicable Disease, Illness, or Poisoning: means an illness due to an infectious or malignant agent, which is capable of being transmitted directly or indirectly to a person from an infected person or animal through the agency of an intermediate animal, host or vector, or through the inanimate environment.

Decontamination: means the removal or neutralizing of contaminating material, such as radioactive materials, biological materials, or chemical warfare agents, from a person or object to the extent necessary to preclude the occurrence of foreseeable adverse health effects. Decontamination includes remediation or destruction of sources of communicable disease or biological, chemical, radiological or nuclear agents.

Department: means the Southwest Nebraska Public Health Department

Directed Health Measures: means any measure, whether prophylactic or remedial, intended and directed to prevent or limit the spread of communicable disease or to prevent or limit public exposure to or spread of biological, chemical, radiological or nuclear agents.

Director: means the Director of the Southwest Nebraska Public Health Department, or a person acting on behalf of the Director as his or her designee.

Health Care Facility: means any facility licensed under the Health Care Facility Licensure Act, and shall include such additional clinics or facilities not licensed under that act as may be identified in specific orders issued pursuant to these regulations.

Health Care Provider: means any credentialed person regulated under the Advanced Practice Registered Nurse Act, the Emergency Medical Services Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nurse Practice Act, the

Occupational Therapy Practice Act, the Uniform Licensing Law, or Neb. Rev. Stat. §§ 71-3702 to 71-3715.

Isolation: means the separation of people who have a specific communicable disease illness or poisoning from healthy people and the restriction of their movement to stop the spread of that disease, illness or poison. In circumstances where animals are agents of spread of communicable disease, illness or poisoning, isolation may apply to such animals.

Local Public Health Department: means a local public health department as defined by Neb. Rev. Stat. § 71-1626 and its governing officials.

Personal Protective Equipment (PPE): means equipment ordered or used to protect an individual from communicable disease, illness or poisoning.

Premises: means land and any structures upon it.

Public Health Authority: means any individual or entity charged by law with a duty or authority to enforce or carry out a public health function.

Quarantine: directed to identified individuals or defined populations means the restriction of, or conditions upon, the movement and activities of people who are not yet ill, but who have been or may have been exposed to an agent of communicable disease, illness, or poisoning and are therefore potentially capable of communicating a disease, illness, or poison. The purpose is to prevent or limit the spread of communicable disease, illness or poison. Quarantine of individuals or defined populations generally involves the separation of the quarantined, from the general population. In circumstances where animals are agents of spread of communicable disease, illness or poisoning, quarantine may apply to such animals.

Quarantine and isolation: These terms *both* include restriction of, or conditions upon, the movement and activities of people to prevent or limit the spread of communicable disease, illness or poisoning. In circumstances where animals are agents of communicable disease, illness or poisoning, either term may apply to such animals.

Quarantine Officer: means the statutorily established quarantine officer for a municipality or county, usually the chief executive or top law enforcement officer.

Quarantine of premises: means restriction of the movement of all people and animals upon, into or out from those premises to prevent or limit the spread of communicable disease or illness or to prevent or limit public exposure to or spread of biological, chemical, radiological or nuclear agents.

State Public Health Department: means the Nebraska Department of Health and Human Services Regulation and Licensure or its successor.

003 Findings

A. When the Director receives information from:

1. The United States Department of Health and Human Services Centers for Disease Control and Prevention;
2. The State Public Health Department;
3. Any other Local Public Health Department;
4. Communicable disease surveillance conducted by the Southwest Nebraska Public Health Department; or
5. Treating health care providers or health care facilities

that a member or members of the public have been, or may have been exposed to a communicable disease, illness or poisoning by biological, chemical radiological or nuclear agents, the Director will review all information under the following provisions to determine if any Directed Health Measure should be ordered.

B. Before ordering a Directed Health Measure, the Director:

Must find both:

- a. that a member or members of the public have been, or may have been exposed; and
- b. that Directed Health Measures exist to effectively prevent, limit or slow the spread of communicable disease or illness or to prevent, limit or slow public exposure to or spread of biological, chemical, radiological or nuclear agents; and

Must find one or more of the following:

- a. that the exposure presents a risk of death or serious long-term disabilities to any person;
- b. that the exposure is wide-spread and poses a significant risk of harm to people in the general population; or
- c. that there is a particular subset of the population that is more vulnerable to the threat and thus at increased risk; and

May make further finding, in assessing the nature of the risk presented:

- a. Whether the threat is from a novel or previously eradicated infectious agent or toxin;
- b. Whether the threat is or may be a result of intentional attack, accidental release, or natural disaster; or
- c. Whether any person(s) or agent(s) posing the risk of communicating the disease are non-compliant with any measures ordered by a health care provider.

C. If affirmative findings are made pursuant to subsection 003 B. and the Director further finds that a delay in the imposition of an effective Directed Health Measure would significantly jeopardize the ability to prevent or limit the transmission of a communicable disease, illness or poisoning or pose unacceptable risks to any person or persons, the Director may impose any of the Directed Health Measures set out in section 004.

The Director's findings will be reported to the State Public Health Department Communicable Disease Control program.

The Director may refer the findings to the Director of the State Public Health Department and defer to that Director for the imposition of measures under the State Public Health Department's authority.

004 Directed Health Measures

A. Directed Health Measures which may be ordered by the Director are:

1. Quarantine:
 - Of individuals,
 - Of defined populations,
 - Of buildings and premises, or of defined areas, public and private, or
 - Of animals

The methods of quarantine may require the individual or population to remain within or outside of defined areas (*cordon sanitaire*) or to restricted activities, which may include "work quarantine" restricting individuals or defined populations to their residence or workplace.

In the event that the quarantine of affected premises posing an immediate threat to the public health and safety is determined to be incapable of effective enforcement, the Department may act alone or in concert with any local jurisdiction having condemnation or nuisance abatement authority, to carry out measures effective to remove the threat, including safe demolition of the premises.

2. Isolation of individuals:
 - At home,
 - In a health care facility, or
 - In another designated area.
3. Decontamination.
4. Such other protocols or measures as may be identified as effective against public health threats by the American Public Health Association, the United States Department of Health and Human Services Centers for Disease Control and Prevention or other similar public health authority.

B. Any of the Directed Health Measures may include, and are not limited to, any of the following:

Periodic monitoring and reporting of vital signs.

Use of PPE for the performance of specified tasks or at specified premises.

3. Specific infection control measures including cleaning and disposal of specified materials.

- C. Any Order of the Director may include temporary seizure or commandeering of personal or real property for public health purposes.
- D. Directed Health Measures may be directed to an individual, group of individuals, or a population, or directed to the public at large with regard to identified premises or activities and may also include health care providers, health care facilities, health care authorities and public and private property including animals.

005 Procedure

A. In making the finding under subsection 003 and determining the measures under subsection 004, the Director will consult with the medical director of the Southwest Nebraska Public Health Department, and with the state's Chief Medical Officer or other medical and communicable disease control personnel of the State Public Health Department. The Director may make use of the expertise and observations of any health care provider who has treated a person for whom a Directed Health Measure is being considered. The Director will also consider the directives and guidelines issued by the American Public Health Association and the United States Department of Health and Human Services Centers for Disease Control and Prevention, or their successors, and may consider the directives and guidelines issued by similar public health authorities.

B. In determining the nature, scope and duration of the Directed Health Measure ordered, the Director, based on the information available at the time of the determination, will:

1. Assess the situation and identify the least restrictive practical means of isolation, quarantine, decontamination or imposition of other directed health measures on persons or property that effectively protects unexposed and susceptible individuals.
2. When isolation or quarantine is ordered, select a place that will allow the most freedom of movement and communication with family members and other contacts without allowing disease transmission to others and allow the appropriate level of medical care needed by isolated or quarantined individuals to the extent practicable.
3. For communicable diseases, order that the duration of the Directed Health Measure should be no longer than necessary to ensure that the affected individual or group no longer poses a public health threat.
4. Give consideration to separation of isolated individuals from quarantined individuals. However, if quarantine or isolation is possible in the affected individual's (s') home, individuals may be isolated with quarantined individuals.
5. Give consideration to providing for termination of the Order under the following circumstances:
 - a. If laboratory testing or examination is available to rule out a communicable condition, the Order may provide that proof of the negative result will be accepted to terminate a Directed Health Measure;
or

- b. If treatment is available to remedy a communicable condition, the Order may provide that proof of successful treatment will be accepted to terminate a Directed Health Measure.

006 Order

- A. Upon a finding pursuant to subsection 003 and determination pursuant to subsection 004, the Director will issue an Order directed to the affected individual, individuals, entity or entities.
- B. Prior to issuing any Order, the Director will, as required by Neb. Rev. Stat. §71-1631(10), obtain approval of the Directed Health Measure by the State Public Health Department.
- C. Orders of the Director imposing Directed Health Measures are effective immediately.
- D. Orders will contain the finding and determination and will order the affected person or persons to comply with the terms of the Order, and will also include the following:
 1. Orders of Isolation will contain the following:
 - a. Name and identifying information of the individual(s) subject to the order;
 - b. Brief statement of the facts warranting the isolation;
 - c. Conditions for termination of the order;
 - d. Duration of isolation period;
 - e. The place of isolation;
 - f. Prohibition of contact with others except as approved by the Director or designee;
 - g. Required conditions to be met for treatment;
 - h. Required conditions to be met for visitation if allowed;
 - i. Instructions on the disinfecting or disposal of any personal property of the individual;
 - j. Required precautions to prevent the spread of the subject disease; and
 - k. The individual's right to an independent medical exam at their own expense.
 2. Orders of Quarantine will contain the following:
 - a. Name, identifying information or other description of the individual, group of individuals, premises or geographic location subject to the order;
 - b. Brief statement of the facts warranting the quarantine;
 - c. Conditions for termination of the order;
 - d. Specified duration of the quarantine;
 - e. The place or area of quarantine;
 - f. Prohibition of contact with others except as approved by the Director or designee;
 - g. Symptoms of the subject disease and a course of treatment;
 - h. Instructions on the disinfecting or disposal of any personal property;
 - i. Precautions to prevent the spread of the subject disease; and,
 - j. The individual's right to an independent medical exam at their own expense..
 3. Orders of Decontamination will contain the following:
 - a. Description of the individual, group of individuals, premises, or geographic location subject to the order;
 - b. Brief statement of the facts warranting the decontamination;

- c. Instructions on the disinfecting or disposal of any personal property; and,
- d. Precautions to prevent the spread of the subject disease, illness or poison.

007 Notice

- A. Orders directed to individuals will be delivered in a manner reasonably calculated to give the individual actual notice of the terms of the Order consistent with the threat of communicable disease. Service may be made by law enforcement personnel or any other person designated by the Director. Personal delivery may be attempted, except in cases when personal delivery would present a risk of spread of disease or exposure to agents that cannot be avoided by measures reasonably available. Electronic transmission by e-mail or telefacsimile will be sufficient, provided that any available means of determining and recording receipt of such notice will be made. If electronic transmission is impossible or unavailable under the circumstances, oral communication by telephone or direct transmission of voice will be sufficient, and such communication will be memorialized at the time it is delivered.
- B. Orders directed to groups of individuals or populations may be disseminated by mass media.
- C. Orders directed to quarantine premises or geographic locations may be disseminated by mass media and will be posted at or near the premises or geographic location in order to be visible and effective to achieve the intended purpose. Copies of the Orders will be delivered to the owners or others in control of the premises, if known, in the same manner as Orders directed to individuals.
- D. Copies of all Orders will be provided, if reasonably possible, to the chief elected official(s) of the jurisdiction(s) in which the Order is implemented.
- E. The Southwest Nebraska Public Health Department will send a copy of the Order to the State Public Health Department Communicable Disease Control program by telefacsimile, e-mail or the Health Alert Network system.

008 Enforcement

- A. The Department may seek the assistance of the appropriate quarantine officer to enforce any Order.
- B. Department personnel assigned to enforcement of any Order will promote the need for the Directed Health Measure and encourage individuals to comply with all aspects of the Order.
- C. Any individual subject to an Order may at any time present evidence to the Director to show that the Order should be modified or terminated. The Director may or may not modify or terminate the Order at his or her sole discretion.
- D. Any person subject to an Order under these regulations who does not comply may be referred to the County Attorney for prosecution or injunctive action under Neb. Rev. Stat. § 71-506 or § 71-1631.01.

009 Cooperation and Coordination

The Department may assist or seek the assistance of the State Public Health Department, quarantine officers, other Local Public Health Departments and other public health authorities authorized or required by law to carry out Directed Health Measures in carrying out those measures.

The Department may enter into Inter-local Cooperation agreements in furtherance of the provisions of this chapter; however, the absence of any such agreement will not preclude the Department from exercising its authority pursuant to these regulations.

Treating Health Care Providers must follow and aid affected individuals and populations in compliance with ordered Directed Health Measures.

010 Reporting

Treating Health Care Providers, Health Care Facilities and other persons must report any information known to them concerning any individual or entity subject to an Order of quarantine, isolation or other Directed Health Measure that is not in compliance with the Order. The report must be made to the State Public Health Department and local law enforcement.

State of Nebraska Statutes For Local Control of Communicable Diseases

Further information on state statutes can be found at:

The main authority for LPHDs to adopt the Q&I regulations (or any) regulations are at 71-501
<http://nebraskalegislature.gov/laws/statutes.php?statute=71-501> and 71-1631, particularly subsection (7)
<http://nebraskalegislature.gov/laws/statutes.php?statute=71-1631>

Local Health Department

Section 71-501

Contagious diseases; local public health department; county board of health; powers and duties.

(1) **The local public health department** as defined in section 71-1626 or the county board of a county that has not established or joined in the establishment of a local public health department **shall make and enforce regulations to prevent the introduction and spread of contagious, infectious, and malignant diseases in the county or counties under its jurisdiction.**

...

Section 71-506

Violations; penalty; enforcement.

Any person violating any of the provisions of sections 71-501 to 71-505, 71-507 to 71-513, or 71-514.01 to 71-514.05 or section 71-531 shall be guilty of a **Class V misdemeanor** for each offense, except that any person who willfully or maliciously discloses, except as provided by law, the content of any reports, notifications, or resulting investigations made under section 71-502 and subject to the confidentiality provisions of section 71-503.01 shall be guilty of a Class III misdemeanor. The Attorney General or the county attorney may, in accordance with the laws of the state governing injunctions and other process, maintain an action in the name of the state against any person or any private or public entity for violating sections 71-501 to 71-505, 71-507 to 71-513, or 71-514.01 to 71-514.05 or section 71-531 and the rules and regulations adopted and promulgated under such sections.

Section 71-1626

Terms, defined.

For purposes of sections 71-1626 to 71-1636:

(1) **Core public health functions** means assessment, policy development, and assurance designed to protect and improve the health of persons within a geographically defined community by (a) **emphasizing services to prevent illness, disease, and disability**, (b) promoting effective coordination and use of community resources, and (c) extending health services into the community, including public health nursing, disease prevention and control, public health education, and environmental health services;

...

(3) Local public health department means a county, district, or city-county health department.

Note: ... indicates missing text for the reference

Section 71-1628.04

Core public health functions; contract authorized.

...

(2) **Each local public health department shall** include the essential elements in carrying out the core public health functions to the extent applicable within its geographically defined community and to the extent funds are available. The essential elements include, but are not limited to, (a) monitoring health status to identify community health problems, (b) diagnosing and investigating health problems and health hazards in the community, (c) informing, educating, and empowering people about health issues, (d) mobilizing community partnerships to identify and solve health problems, (e) developing policies and rules that support individual and community health efforts, (f) **enforcing laws, rules, and regulations that protect public health and the environment and ensure safety**, (g) linking people to needed medical and mental health services and assuring the provision of health care when not otherwise available, (h) assuring a competent workforce within the health care industry and the public health departments, (i) evaluating effectiveness, accessibility, and quality of services within the health care industry and the public health departments, and (j) researching to gain new insights and innovative solutions to health problems.

Section 71-1631

Local boards of health; meetings; expenses; powers and duties; rules and regulations; . . . :

. . . The board of health shall, with the approval of the county board. . . :

...

(7) **Enact rules and regulations, subsequent to public hearing held after due public notice of such hearing by publication at least once in a newspaper having general circulation in the county or district at least ten days prior to such hearing, and enforce the same for the protection of public health and the prevention of communicable diseases within its jurisdiction, subject to the review and approval of such rules and regulations by the Department of Health and Human Services Regulation and Licensure;**

...

(9) In counties having a population of more than three hundred thousand inhabitants, enact rules and regulations for the protection of public health and the prevention of communicable diseases within the district, except that such rules and regulations shall have no application within the jurisdictional limits of any city of the metropolitan class and shall not be in effect until (a) thirty days after the completion of a three-week publication in a legal newspaper, (b) approved by the county attorney with his or her written approval attached thereto, and (c) filed in the office of the county clerk of such county;

10) Investigate the existence of any contagious or infectious disease and adopt measures, with the approval of the Department of Health and Human Services Regulation and Licensure, to arrest the progress of the same;

Section 71-1631.01

Local boards of health; rules and regulations; violations; penalty.

Any person violating any rule or regulation, authorized by the provisions of either subdivision (7) or (9) of section 71-1631, shall be **guilty of a Class III misdemeanor**, and each day's violation shall be considered a separate offense.

Section 71-1635

Health department; establishment; other health agencies abolished; exception; city-county health department; control by department.

When the county board of any county or counties creates a health department as provided by sections 71-1626 to 71-1636, every other local, municipal, or county public health agency or department, except city or county hospitals, may be abolished, and such county or district health department may be given full control over all health matters in the county or counties, including all municipalities in the county in conformity with the rules, regulations, and policies of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support. When a city has joined in the establishment of a city-county health department, such city-county health department may be given such control over all health matters in the city as may be provided by agreement between the county and the city with the approval of the Department of Health and Human Services Regulation and Licensure. If the health department in a county or city is changed, any lawful ordinance, resolution, regulation, policy, or procedure relating to any of the functions conferred by sections 71-1626 to 71-1636 of the former health department shall remain in full force and effect until it is repealed or replaced or until it conflicts with a subsequently enacted measure.

Section 28-106

Misdemeanors; classification of penalties; sentences; where served.

(1) For purposes of the Nebraska Criminal Code and any statute passed by the Legislature after the date of passage of the code, misdemeanors are divided into seven classes which are distinguished from one another by the following penalties which are authorized upon conviction:

Class III misdemeanor Maximum –three months imprisonment, or five hundred dollars fine, or both; Minimum – none

Class V misdemeanor Maximum – no imprisonment, one hundred dollars fine; Minimum – none

(2) Sentences of imprisonment in misdemeanor cases shall be served in the county jail, except that in the following circumstances the court may, in its discretion, order that such sentences be served in institutions under the jurisdiction of the Department of Correctional Services:

- (a) If the sentence is for a term of one year upon conviction of a Class I misdemeanor;
- (b) If the sentence is to be served concurrently or consecutively with a term for conviction of a felony; or
- (c) If the Department of Correctional Services has certified as provided in section 28-105 as to the availability of facilities and programs for short-term prisoners and the sentence is for a term of six months or more.

Counties

Section 23-174.10

Public health, safety, and welfare regulations; county board may adopt.

In any county which has adopted county zoning regulations, the county board, by resolution, may make regulations as may be necessary or expedient to promote the public health, safety, and welfare, including regulations to prevent the introduction or spread of contagious, infectious, or malignant diseases; to provide rules for the prevention, abatement, and removal of nuisances, including the pollution of air and water; and make and prescribe regulations for the construction,

location, and keeping in order of all slaughterhouses, stockyards, warehouses, sheds, stables, barns, commercial feedlots, dairies, junk and salvage yards, or other places where offensive matter is kept, or is likely to accumulate. Such regulations shall be not inconsistent with the general laws of the state and **shall apply to all of the county except within the limits of any incorporated city or village, and except within the unincorporated area where a city or village has been granted zoning jurisdiction and is exercising such jurisdiction.**

Metropolitan Class Cities (Omaha) Population: >300,000

Section 14-102

Additional powers.

...

(3) To provide all needful rules and regulations for the protection and preservation of health within the city; and for this purpose they may provide for the enforcement of the use of water from public water supplies when the use of water from other sources shall be deemed unsafe;

...

Section 14-103

City council; powers; health regulation; jurisdiction.

The council shall have power to define, regulate, suppress and prevent nuisances. The council may create a board of health in cases of a general epidemic or may cooperate with the boards of health provided by the laws of this state. The council may provide rules and regulations for the care, treatment, regulation, and **prevention of all contagious and infectious diseases**, for the regulation of all hospitals, dispensaries, and places for the treatment of the sick, for the sale of dangerous drugs, for the regulation of cemeteries and the burial of the dead. **The jurisdiction of the council in enforcing the foregoing regulations shall extend over such city and over all grounds and property within three miles thereof.**

Section 14-219

Mayor; executive powers; jurisdiction outside corporate limits.

The mayor shall be the chief executive officer and conservator of the peace throughout the city. He shall have such jurisdiction as may be vested in him by ordinance over all places within three miles of the corporate limits of the city, for the enforcement of any health and quarantine ordinance or the regulations thereof.

Section 71-1631

...

(9) In counties having a population of more than three hundred thousand inhabitants, enact rules and regulations for the protection of public health and the prevention of communicable diseases within the district, except that such rules and regulations shall have no application within the jurisdictional limits of any city of the metropolitan class and shall not be in effect until (a) thirty days after the completion of a three-week publication in a legal newspaper, (b) approved by the county attorney with his or her written approval attached thereto, and (c) filed in the office of the county clerk of such county;

...

Primary Class Cities (Lincoln) Population >100,000 < or = 300,000

Section 15-236

Contagious diseases; control; board of health; hospitals.

A primary city **may make all such ordinances, bylaws, rules and regulations** not inconsistent with the general laws of the state as may be necessary or expedient to promote the public health, safety and welfare, including ordinances, bylaws, rules and regulations as may be necessary or expedient to prevent the introduction or **spread of contagious, infectious or malignant diseases**. **This power and authority is granted to such city in the area which is within the city or within three miles of the city and outside of any organized city or village.** It may create a department of health, make laws and regulations for that purpose, and enforce all ordinances, bylaws, rules and regulations made as authorized herein as provided in section 15-263.

Annotations:

The city of Lincoln enacted Municipal Code s. 8.44.040, which regulates the disposition of refuse pursuant to a grant of authority found in this section. **The court held that the authority to enforce ordinances is granted to an area within the city or within three miles of the city and outside any organized city or village.** State v. Austin, 209 Neb. 174, 306 N.W.2d 861 (1981).

Section 15-403

Ordinances; form; publication; when operative.

The style of ordinances shall be: Be it ordained by the city council of the city of **All ordinances shall be published within fifteen days after passage thereof, such publication to be sufficient if published in one issue of a daily or weekly newspaper of general circulation in the city, or posted on the official bulletin board of the city at the city hall, or in book or pamphlet form, as may be provided by ordinance, to be distributed or sold in the city.** Ordinances fixing a penalty or forfeiture for the violation thereof shall not take effect until fifteen days after passage, and in no case before one week after the publication thereof in the manner above prescribed; PROVIDED, in case of riots, infectious or **contagious diseases** or other impending danger or other emergency requiring immediate operation of the ordinance, the same **shall take effect immediately upon the publication** thereof as above prescribed. All ordinances, except as hereinabove prescribed, shall take effect fifteen days after passage.

Section 71-1630

This section provides specific duties when the county board of any county having a population of more than two hundred thousand inhabitants and the city council of any city located in such county have executed an agreement for maintaining a city-county health department on or after January 1, 1997.

First Class Cities Population >5,000 < or = 100,000

Section 16-238

Spread of disease; regulation; board of health; creation; powers; duties.

A city of the first class **may make regulations to prevent the introduction and spread of contagious, infectious, or malignant diseases into the city.** In cities with a commission form of government as provided in Chapter 19, article 4, and cities with a city manager plan of government as provided in Chapter 19, article 6, **a board of health shall be created** consisting of

five members: The mayor, who shall be chairperson, a physician, who shall be medical adviser, the chief of police, who shall be secretary and quarantine officer, and two other members. In all other cities, a board of health shall be created consisting of five members: The mayor, who shall be chairperson, a physician, who shall be medical adviser, the chief of police, who shall be secretary and quarantine officer, the president of the council, and one other member. A majority of such board shall constitute a quorum and shall enact rules and regulations, having the force and effect of law, to safeguard the health of the people of such city and prevent nuisances and unsanitary conditions, enforce the same, and provide fines and punishments for the violation thereof.

Section 16-314

Mayor; legislative recommendations; jurisdiction.

The mayor shall, from time to time, communicate to the city council such information and recommend such measures as in his opinion may tend to the improvement of the finances of the city, the police, health, comfort, and general prosperity of the city, and may have such jurisdiction as may be invested in him by ordinance over all places **within two miles of the corporate limits of the city, for the enforcement of health or quarantine ordinances and the regulation thereof.**

Section 16-405

Council; ordinances; style; publication; emergency ordinances.

The style of ordinances shall be: "Be it ordained by the mayor and council of the city of, " **and all ordinances of a general nature shall, within fifteen days after they are passed, be published in some newspaper published within the city, or in pamphlet form, to be distributed or sold, as may be provided by ordinance;** and every ordinance fixing a penalty or forfeiture for its violation shall, before the same takes effect, be published for at least one week in some manner above prescribed; PROVIDED, in **cases of riots, infectious diseases or other impending danger, or any other emergency requiring its immediate operation, such ordinance shall take effect upon the proclamation of the mayor immediately upon its first publication as above provided.**

Second Class Cities Population > 800 < = 5,000

Section 17-114

Mayor; territorial jurisdiction.

The mayor shall have such jurisdiction as may be vested in him by ordinance, **over all places within five miles of the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him by ordinance, excepting taxation, within one-half mile of the corporate limits of said city.**

Section 17-121

Health and sanitation; rules and regulations; board of health; members; powers.

(1) A city of the second class shall have power to make regulations to prevent the introduction and spread of contagious, infectious, or malignant diseases into the city, to make quarantine laws for that purpose, and to enforce the same.

(2) In cities with a commission form of government as provided in Chapter 19, article 4, and cities with a city manager plan of government as provided in Chapter 19, article 6, **a board of health shall be created** consisting of five members: The mayor, who shall be chairperson, and four other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the city manager has appointed a chief of police, the chief of police shall serve on the board as secretary and quarantine officer.

(3) In all other cities, a board of health shall be created consisting of four members: The mayor, who shall be chairperson, the president of the city council, and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the mayor has appointed a chief of police, the chief of police shall serve on the board as secretary and quarantine officer.

(4) A majority of such board shall constitute a quorum and shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health of the people of such city, may enforce them, and may provide fines and punishments for the violation thereof. The board of health shall have power to and shall make all needful rules and regulations relating to matters of sanitation of such city, including the removal of dead animals, the sanitary condition of the streets, alleys, vacant grounds, stockyards, cattle and hog pens, wells, cisterns, privies, waterclosets, cesspools, stables, and all buildings and places not specified where filth, nuisances, or offensive matter is kept or is liable to or does accumulate. It may regulate, suppress, and prevent the occurrence of nuisances and enforce all laws of the state and ordinances of the city relating to the same or to matters of sanitation of such city. The board shall also have control of hospitals, dispensaries, places for treatment of sick, and matters relating to the same under such restrictions and provisions as may be provided by ordinance of such city.

Section 17-123

Public health; regulations; water; power to supply.

A second-class city shall have power to make regulations to secure the general health of the city, to prevent and remove nuisances, and to provide the city with water.

Villages (Population <800)

Section 17-207

Board of trustees; powers; restrictions.

The board of trustees shall have power to **pass ordinances** to prevent and remove nuisances; to restrain and prohibit gambling; to provide for licensing and regulating theatrical and other amusements within such village; to **prevent the introduction and spread of contagious diseases**; to establish and regulate markets; to erect and repair bridges; to erect, repair, and regulate wharves and the rates of wharfage; to regulate the landing of watercraft; to provide for the inspection of building materials to be used or offered for sale in such village; to govern the planting and protection of shade trees in the streets and the building of structures projecting upon or over and adjoining, and all excavations through and under, the sidewalks of such village; and in addition to the special powers herein conferred and granted, to maintain the peace, good government, and welfare of the town or village and its trade, commerce, and manufactories, and to enforce all ordinances by inflicting penalties upon inhabitants or other persons, for the violation thereof, not exceeding five hundred dollars for any one offense, recoverable with costs.

Nothing in this section shall be construed to apply to bingo, lotteries, lotteries by the sale of pickle cards, or raffles conducted in accordance with the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, the Nebraska Small Lottery and Raffle Act, or the State Lottery Act.

Section 17-208

Appointive officers; police officer; removal or disciplinary action; procedure; board of health; members; duties.

(3) **The village board of trustees shall also appoint a board of health consisting of three members:** The chairperson of the village board, who shall be chairperson, and two other members. One member shall be a physician or health care provider, if one can be found who is willing to serve. Such physician or health care provider, if appointed, shall be the board's medical advisor. If the village board of trustees has appointed a marshal, the marshal may be appointed to the board and serve as secretary and quarantine officer. A majority of the board of health shall constitute a quorum and shall enact rules and regulations, which shall have the force and effect of law, to safeguard the health of the people of such village and prevent nuisances and unsanitary conditions. The board of health shall enforce the same and provide fines and punishments for violations. The appointees shall hold office for one year unless removed by the chairperson of the village board with the advice and consent of the trustees.

Legal References to Payer of Quarantine and Isolation Costs

Section 71-502

Communicable diseases; rules and regulations; control; powers of Department of Health and Human Services Regulation and Licensure.

The Department of Health and Human Services Regulation and Licensure shall have supervision and control of all matters relating to necessary communicable disease control and shall adopt and promulgate such proper and reasonable general rules and regulations as will best serve to promote communicable disease control throughout the state and prevent the introduction or spread of disease. In addition to such general and standing rules and regulations, (1) in cases of emergency in which the health of the people of the entire state or any locality in the state is menaced by or exposed to any contagious, infectious, or epidemic disease, illness, or poisoning, **(2) when a local board of health having jurisdiction of a particular locality fails or refuses to act with sufficient promptitude and efficiency in any such emergency,** or (3) in localities in which no local board of health has been established, as provided by law, the department shall adopt, promulgate, and enforce special communicable disease control rules and regulations such as the occasion and proper protection of the public health may require. **All necessary expenses incurred in the enforcement of such rules and regulations shall be paid by the city, village, or county for and within which the same have been incurred. All officers and other persons shall obey and enforce such communicable disease control rules and regulations as may be adopted and promulgated by the department.**

Section 20-148

Deprivation of constitutional and statutory rights, privileges, or immunities; redress.

(1) Any person or company, as defined in section 49-801, **except any political subdivision,** who subjects or causes to be subjected any citizen of this state or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the United States Constitution or the Constitution and laws of the State of Nebraska, shall be liable to such injured person in a civil action or other proper proceeding for redress brought by such injured person.

(2) The remedies provided by this section shall be in addition to any other remedy provided by Chapter 20, article 1, and shall not be interpreted as denying any person the right of seeking other proper remedies provided thereunder.

Definition: Tort - A wrongful act, omission, or violation of the duty of care resulting in injury or damage to a person or property.

Section 81-8.209

State Tort Claims Act; purpose.

The State of Nebraska shall not be liable for the torts of its officers, agents, or employees, and no suit shall be maintained against the state, any state agency, or any employee of the state on any tort claim except to the extent, and only to the extent, provided by the State Tort Claims Act. The Legislature further declares that it is its intent and purpose through such act to provide uniform procedures for the bringing of tort claims against the state or an employee of the state and that the procedures provided by such act shall be used to the exclusion of all others.

Section 13-903

Political Subdivisions Tort Claims Act; Terms, defined.

For purposes of the Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610, unless the context otherwise requires:

(1) **Political subdivision shall include** villages, cities of all classes, counties, school districts, public power districts, and **all other units of local government**, including entities created pursuant to the Interlocal Cooperation Act or Joint Public Agency Act. Political subdivision shall not be construed to include any contractor with a political subdivision;

(2) **Governing body shall mean** the village board of a village, the city council of a city, the board of commissioners or board of supervisors of a county, the board of directors of a public power district, the governing board or other governing body of an entity created pursuant to the Interlocal Cooperation Act or Joint Public Agency Act, and any duly elected or appointed body holding the power and authority to determine the appropriations and expenditures of any other unit of local government;

(3) **Employee of a political subdivision shall mean** any one or more officers or employees of the political subdivision or any agency of the subdivision and shall include members of the governing body, duly appointed members of boards or commissions when they are acting in their official capacity, volunteer firefighters, and volunteer rescue squad personnel. Employee shall not be construed to include any contractor with a political subdivision; and

(4) **Tort claim shall mean any claim against a political subdivision for money only on account of damage to or loss of property or on account of personal injury or death, caused by the negligent or wrongful act or omission of any employee of the political subdivision, while acting within the scope of his or her office or employment, under circumstances in which the political subdivision, if a private person, would be liable to the claimant for such damage, loss, injury, or death but shall not include any claim accruing before January 1, 1970.**

Section 13-910

Act and sections; exemptions.

The Political Subdivisions Tort Claims Act and sections 16-727, 16-728, 23-175, 39-809, and 79-610 shall not apply to:

(1) Any claim based upon an act or omission of an employee of a political subdivision, exercising due care, in the execution of a statute, ordinance, or officially adopted resolution, rule, or regulation, whether or not such statute, ordinance, resolution, rule, or regulation is valid;

(2) Any claim based upon the exercise or performance of or the failure to exercise or perform a discretionary function or duty on the part of the political subdivision or an employee of the political subdivision, whether or not the discretion is abused;

(3) Any claim based upon the failure to make an inspection or making an inadequate or negligent inspection of any property other than property owned by or leased to such political subdivision to determine whether the property complies with or violates any statute, ordinance, rule, or regulation or contains a hazard to public health or safety unless the political subdivision

had reasonable notice of such hazard or the failure to inspect or inadequate or negligent inspection constitutes a reckless disregard for public health or safety;

...

(6) Any claim caused by the imposition or establishment of a quarantine by the state or a political subdivision, whether such quarantine relates to persons or property;

Case Law

Directed Health Measures Orders – Financial Responsibility

Shidler v. York County

95 Neb. 652, 146 N.W. 949

Neb. 1914.

Apr 03, 1914

Overview: In 1909 there was a large number of cases of what is commonly called "infantile paralysis" in York county. Mr. John L. Dorsey, the then chairman of the county board of health, expressed himself as opposed to a quarantine, and failed and refused to call a meeting of the county board of health, or to take any other measures relative to the disease. The state board of health, acting under its power, on information of the condition of affairs in York county, and by reason of the authority contained in section 2738, Rev. St. 1913, met and made an order that said disease be quarantined in York county, and by its order instructed the state health inspector to communicate its order to Doctor Shidler, and to require him to establish and maintain a rigid quarantine of said disease throughout that county.

Question: The doctor, Shidler, presented his claim to the county board, and asked for its approval and allowance. The board of supervisors rejected the claim, and the doctor appealed from its order to the district court of York county. Was the plaintiff entitled to recover on the claims filed against the county?

Opinion: A duly licensed physician, pursuant to Rev.St.1913, § 2738, acting under the order of the state board of health in quarantining and suppressing a highly contagious disease, may recover of the county, where such disease was prevalent, the actual expenses incurred by him and the reasonable value of his services.

DRAFT
04/06/06

NEBRASKA HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE

173 NAC 6

TITLE 173 CONTROL OF COMMUNICABLE DISEASE

CHAPTER 6 DIRECTED HEALTH MEASURES TO PREVENT OR LIMIT THE SPREAD
OF COMMUNICABLE DISEASE, ILLNESS, OR POISONING

6-001 SCOPE AND AUTHORITY: These regulations are enacted pursuant to Neb. Rev. Stat. §§ 71-502, and 81-601 et seq. and apply to the exercise of authority by the Department to order Directed Health Measures necessary to prevent the spread of communicable disease, illness, or poisoning.

Nothing in these regulations precludes the Department from requesting voluntary compliance with beneficial health measures.

6-002 DEFINITIONS

Chief Medical Officer means the state Chief Medical Officer appointed pursuant to Neb. Rev. Stat. § 81-3201, if the Department Director is not a medical doctor.

Communicable disease, illness, or poisoning means an illness due to an infectious or malignant agent, which is capable of being transmitted directly or indirectly to a person from an infected person or animal through the agency of an intermediate animal, host, or vector, or through the inanimate environment.

Decontamination means the removal or neutralizing of contaminating material, such as radioactive materials, biological materials, or chemical warfare agents, from a person or object to the extent necessary to preclude the occurrence of foreseeable adverse health effects. Decontamination includes remediation or destruction of sources of communicable disease or biological, chemical, radiological, or nuclear agents.

Department means the Department of Health and Human Services Regulation and Licensure or its successor.

Directed Health Measure means any measure, whether prophylactic or remedial, intended and directed to prevent or limit the spread of communicable disease or to prevent or limit public exposure to or spread of biological, chemical, radiological, or nuclear agents.

Director means the Director of Regulation and Licensure, or a person acting on behalf of the Director as his or her designee.

Health care facility means any facility licensed under the Health Care Facility Licensure Act, and such additional clinics or facilities not licensed under that act as may be identified in specific orders issued pursuant to 173 NAC 6.

Health care provider means any credentialed person regulated under the Advanced Practice Registered Nurse Act, the Emergency Medical Services Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nurse Practice Act, the Occupational Therapy Practice Act, the Uniform Licensing Law, or Neb. Rev. Stat. §§ 71-3702 to 71-3715.

Isolation means the separation of people who have a specific communicable disease, illness, or poisoning from healthy people and the restriction of their movement to stop the spread of that disease, illness, or poison. In circumstances where animals are agents of spread of communicable disease, illness, or poisoning, isolation may apply to such animals.

Local public health department means a local public health department as defined by Neb. Rev. Stat. § 71-1626 and its governing officials.

Municipality means any City of the Metropolitan class (see Neb. Rev. Stat. § 14-101), Primary class (§ 15-101), First class (§ 16-101), Second class (§ 17-101), and Village (§ 17-201) and its governing officials.

Personal protective equipment (PPE) means equipment ordered or used to protect an individual from communicable disease, illness, or poisoning.

Premises means land and any structures upon it.

Public health authority means any individual or entity charged by law with a duty or authority to enforce or carry out a public health function.

Quarantine directed to identified individuals or defined populations means the restriction of, or conditions upon, the movement and activities of people who are not yet ill, but who have been or may have been exposed to an agent of communicable disease, illness, or poisoning and are therefore potentially capable of communicating a disease, illness, or poison. The purpose is to prevent or limit the spread of communicable disease, illness, or poison. Quarantine of individuals or defined populations generally involves the separation of the quarantined from the general population. In circumstances where animals are agents of spread of communicable disease, illness, or poisoning, quarantine may apply to such animals.

Quarantine officer means the statutorily established quarantine officer for a municipality or county, usually the chief executive or top law enforcement officer.

Quarantine of premises means restriction of the movement of all people and animals upon, into, or out from those premises to prevent or limit the spread of communicable disease or illness or to prevent or limit public exposure to or spread of biological, chemical, radiological, or nuclear agents.

6-003 FINDINGS

6-003.01 Director Informed: When the Director receives information that a member or members of the public have been, or may have been exposed to a communicable disease, illness, or poisoning by biological, chemical, radiological, or nuclear agents, the Director will review all information under the following provisions to determine if any Directed Health Measure should be ordered.

This information may come from:

1. The United States Department of Health and Human Services Centers for Disease Control and Prevention;
2. A Local Public Health Department;
3. Communicable disease surveillance conducted by the Department;
4. Treating health care providers or health care facilities; or
5. Other public health, security, or law enforcement authorities.

6-003.02 Director's Findings: Before ordering a Directed Health Measure, the Director:

1. Must find both:
 - a. That a member or members of the public have been, or may have been exposed; and
 - b. That Directed Health Measures exist to effectively prevent, limit, or slow the spread of communicable disease or illness or to prevent, limit, or slow public exposure to or spread of biological, chemical, radiological, or nuclear agents; and
2. Must find one or more of the following:
 - a. That the exposure presents a risk of death or serious long-term disabilities to any person;
 - b. That the exposure is wide-spread and poses a significant risk of harm to people in the general population; or
 - c. That there is a particular subset of the population that is more vulnerable to the threat and thus at increased risk; and
3. May make further finding, in assessing the nature of the risk presented:
 - a. Whether the threat is from a novel or previously eradicated infectious agent or toxin;
 - b. Whether the threat is or may be a result of intentional attack, accidental release, or natural disaster; or
 - c. Whether any person(s) or agent(s) posing the risk of communicating the disease are non-compliant with any measures ordered by a health care provider.

6-003.03 Affirmative Findings: If affirmative findings are made pursuant to 173 NAC 6-003.02 and the Director further finds that a delay in the imposition of an effective Directed Health Measure would significantly jeopardize the ability to prevent or limit the transmission of a communicable disease, illness, or poisoning or pose unacceptable risks to any person or persons, the Director may impose any of the Directed Health Measures set out in 173 NAC 6-004.

6-004 DIRECTED HEALTH MEASURES

6-004.01 Directed Health Measures which may be ordered by the Director are:

6-004.01A Quarantine of:

1. Individuals;
2. Defined populations;
3. Buildings and premises, or of defined areas, public and private, or
4. Animals.

The methods of quarantine may require the individual or population to remain within or outside of defined areas (*cordon sanitaire*) or restricted to or from specified activities, which may include "work quarantine" restricting individuals or defined populations to their residence or workplace.

In the event that the quarantine of affected premises posing an immediate threat to the public health and safety is determined to be incapable of effective enforcement, the Department may act alone or in concert with any local jurisdiction having condemnation or nuisance abatement authority, to carry out measures effective to remove the threat, including safe demolition of the premises.

6-004.01B Isolation of individuals:

1. At home;
2. In a health care facility; or
3. In another designated area.

6-004.01C Decontamination.

6-004.01D Such other protocols or measures as may be identified as effective against public health threats by the American Public Health Association and the United States Department of Health and Human Services Centers for Disease Control and Prevention or other similar public health authority.

6-004.02 Any of the Directed Health Measures may include, and are not limited to, any of the following:

1. Periodic monitoring and reporting of vital signs;
2. Use of PPE for the performance of specified tasks or at specified premises; or
3. Specific infection control measures including cleaning and disposal of specified materials.

6-004.03 Any Order of the Director may include temporary seizure or commandeering of personal or real property for public health purposes.

6-004.04 Directed Health Measures may be directed to an individual, group of individuals, or a population, or directed to the public at large with regard to identified premises or

activities and may also include health care providers, health care facilities, health care authorities, and public and private property including animals.

6-005 PROCEDURES

6-005.01 In making the finding under 173 NAC 6-003 and determining the measures under 173 NAC 6-004, the Director will consult with the Chief Medical Officer, if the Director is not a medical doctor, or other medical and communicable disease control personnel of the Department. The Director may make use of the expertise and observations of any health care provider who has treated a person for whom a Directed Health Measure is being considered. The Director will also consider the directives and guidelines issued by the American Public Health Association and the United States Department of Health and Human Services Centers for Disease Control and Prevention or their successors, and may consider the directives and guidelines issued by similar public health authorities.

6-005.02 In determining the nature, scope, and duration of the Directed Health Measure ordered, the Director, based on the information available at the time of the determination, will:

1. Assess the situation and identify the least restrictive practical means of isolating, quarantining, or decontaminating an individual that effectively protects unexposed and susceptible individuals;
2. Select a place of isolation or quarantine that will allow the most freedom of movement and communication with family members and other contacts without allowing disease transmission to others and allow the appropriate level of medical care needed by isolated or quarantined individuals to the extent practicable;
3. For communicable diseases, order that the duration of the Directed Health Measure should be no longer than necessary to ensure that the affected individual or group no longer poses a public health threat;
4. Give consideration to separation of isolated individuals from quarantined individuals. However, if quarantine or isolation is possible in the home(s) of the affected individual(s), individuals may be isolated with quarantined individuals; and
5. Give consideration to providing for termination of the Order under the following circumstances:
 - a. If laboratory testing or examination is available to rule out a communicable condition, the Order may provide that proof of the negative result will be accepted to terminate a Directed Health Measure; or

- b. If treatment is available to remedy a communicable condition, the Order may provide that proof of successful treatment will be accepted to terminate a Directed Health Measure.

6-006 ISSUANCE OF ORDERS

6-006.01 Upon a finding pursuant to 173 NAC 6-003 and determination pursuant to 173 NAC 6-004, the Director will issue an Order directed to the affected individual, individuals, entity, or entities.

6-006.02 Orders of the Director imposing Directed Health Measures are effective immediately.

6-006.03 Orders will contain the finding and determination and will order the affected person or persons to comply with the terms of the Order, and will also include the following:

6-006.03A Orders of Isolation will contain the following:

1. Name and identifying information of the individual(s) subject to the order;
2. Brief statement of the facts warranting the isolation;
3. Conditions for termination of the order;
4. Duration of isolation period;
5. The place of isolation;
6. Prohibition of contact with others except as approved by the Director or designee;
7. Required conditions to be met for treatment;
8. Required conditions to be met for visitation if allowed;
9. Instructions on the disinfecting or disposal of any personal property of the individual;
10. Required precautions to prevent the spread of the subject disease;
11. The individual's right to an independent medical exam at their own expense;
12. Provisions to ensure and monitor compliance; and
13. Procedure to request a hearing.

6-006.03B Orders of Quarantine will contain the following:

1. Name, identifying information or other description of the individual, group of individuals, premises, or geographic location subject to the order;
2. Brief statement of the facts warranting the quarantine;
3. Conditions for termination of the order;
4. Specified duration of the quarantine;
5. The place or area of quarantine;
6. Prohibition of contact with others except as approved by the Director or designee;

7. Symptoms of the subject disease and a course of treatment;
8. Instructions on the disinfecting or disposal of any personal property;
9. Precautions to prevent the spread of the subject disease;
10. The individual's right to an independent medical exam at their own expense,
11. Provisions to ensure and monitor compliance; and
12. Procedure to request a hearing.

6-006.03 Orders of Decontamination will contain the following:

1. Description of the individual, group of individuals, premises, or geographic location subject to the order;
2. Brief statement of the facts warranting the quarantine;
3. Instructions on the disinfecting or disposal of any personal property;
4. Precautions to prevent the spread of the subject disease; and
5. Procedure to request a hearing.

6-007 NOTICE OF ORDERS

6-007.01 Orders to Individuals: Orders directed to individuals will be delivered in a manner reasonably calculated to give the individual actual notice of the terms of the Order consistent with the threat of communicable disease. Personal delivery may be attempted, except in cases when personal delivery would present a risk of spread of disease or exposure to agents that cannot be avoided by measures reasonably available. Electronic transmission by e-mail or telefacsimile will be sufficient, provided that any available means of determining and recording receipt of such notice will be made. If electronic transmission is impossible or unavailable under the circumstances, oral communication by telephone or direct transmission of voice will be sufficient, and such communication will be memorialized at the time it is delivered.

6-007.02 Orders to Groups: Orders directed to groups of individuals or populations may be disseminated by mass media.

6-007.03 Quarantine Orders Regarding Areas: Orders directing the quarantine of premises or geographic locations may be disseminated by mass media and will be posted at or near the premises or geographic location in order to be visible and effective to achieve the intended purpose. Copies of the Orders will be delivered to the owners or others in control of the premises, if known, in the same manner as Orders directed to individuals.

6-007.04 Notice to Elected Officials: Copies of all Orders will be provided if reasonably possible to the chief elected official(s) of the jurisdiction(s) in which the Order is implemented.

6-008 HEARING PROCESS

6-008.01 Request for Hearing: Any person subject to an Order under 173 NAC 6 may request a contested case hearing to contest the validity of the Order, in accord with the

Department's rules of practice and procedure adopted pursuant to the Administrative Procedure Act.

6-008.02 Scheduling of Hearing: Upon request, the Department will schedule a hearing to be held as soon as reasonably possible under the circumstances. Unless the person subject to an Order requests otherwise, the hearing will be scheduled no sooner than three days after the request is received by the Department. The hearing will be conducted in accord with the Department's rules of practice and procedure adopted pursuant to the Administrative Procedure Act.

6-008.03 Parties to the Hearing: The parties to the hearing will be limited to the Department and the subject person unless:

1. One or more additional persons have requested contested case hearings on substantially identical issues;
2. The interests of administrative economy require that the matters be consolidated; and
3. No party would be prejudiced by consolidation.

The parties may be represented by counsel at their own expense.

6-008.04 Notice and Conduct of Hearing: Reasonable prior notice of the time and place for hearing will be given to the parties. The hearing may be conducted in whole or in part by telephone or videoconference.

6-008.05 Purpose and Decision: The purpose of the hearing is to determine if the factual bases for the Order exist and the reasonableness of the ordered measures. The Director may affirm, reverse or modify the Order by a written Findings of Fact, Conclusions of Law and Order to be issued as soon as reasonably possible after the hearing.

6-008.06 Appeal of Hearing Decision: An appeal to the District Court may be taken from the decision of the Director in accord with the Administrative Procedure Act.

6-009 ENFORCEMENT OF ORDERS

6-009.01 The Department may seek the assistance of the appropriate quarantine officer to enforce any Order.

6-009.02 Department personnel assigned to the enforcement of any Order will promote the need for the Directed Health Measure and encourage individuals to comply with all aspects of the Order.

6-009.03 Any individual subject to an Order may at any time present evidence to the Director to show that the Order should be modified or terminated. The Director may or may not modify or terminate the Order in his or her sole discretion.

6-009.04 In the event of noncompliance with the terms of a Department Order under 173 NAC 6-006, law enforcement and other Municipal and Local Public Health Department

personnel will be required to aid the Department in enforcement of the Order, pursuant to 173 NAC 6 and Neb. Rev. Stat. § 71-502.

6-010 COOPERATION AND COORDINATION

6-010.01 The Department may assist or seek the assistance of quarantine officers, Local Public Health Departments, other public health authorities, and others authorized or required by law to carry out Directed Health Measures in carrying out those measures.

6-010.02 Treating Health Care Providers must follow and aid affected individuals and populations in compliance with ordered Directed Health Measures.

6-011 REPORTING OF NONCOMPLIANCE

Treating Health Care Providers, Health Care Facilities, and other persons must report any information known to them concerning any individual or entity subject to an Order of quarantine, isolation, decontamination, or other Directed Health Measure that is not in compliance with the Order. The report must be made to the Department and local law enforcement.