

**RULES
OF
DEPARTMENT OF HUMAN RESOURCES
PUBLIC HEALTH**

PUBLIC HEALTH EMERGENCY POWERS AND PROCEDURES

CHAPTER 290-5-62

Emergency Rules Chapter 290-5-62-0.19

Statement of Reasons for Adoption: The Division of Public Health requests the Board of Human Resources adopt a temporary emergency rules chapter concerning Public Health Emergency Powers and Procedures. The proposed rules will provide for social distancing, isolation, quarantine and vaccination of individuals and will clarify the authority and responsibility of the Department, the Public Health Officer and the County Board of Health during a public health emergency. The reason for adopting the proposed chapter on an emergency basis is the increasing threat to public health caused by emergence the Swine Flu (H1N1) virus that currently is known to have infected individuals in more than thirty-six states, now including Georgia. The Division will subsequently propose permanent rules addressing the same subject matter.

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290-5-62-0.19-.01. **Authority.** These Rules and Regulations are entitled Public Health Emergency Powers and Procedures and published under the provisions of O.C.G.A. Sections 31-2-1; 31-3-2.1; 31-3-4; 31-12-3 & 4; and 38-3-51.

Authority: O.C.G.A. Sections 31-2-1; 31-3-2.1; 31-3-4; 31-12-3 & 4; and 38-3-51.

290-5-62-0.19-.02. **Definitions.**

- (a) **Public Health Emergency:** The occurrence or imminent threat of an illness or health condition that is believed to be caused by bioterrorism or the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin that poses a high probability of a large number of deaths in the affected population, a large number of serious or long-term disabilities in the affected population, or widespread exposure to an infectious or toxic agent that poses a significant risk of future harm to a large number of people in the affected population.

- (b) Isolation: The separation and restriction of movement or activities, for the period of communicability of ill (i.e., symptomatic), for infected or contaminated persons who have an infectious disease or who are contaminated with a toxin, in such places or in such conditions as to prevent or limit the transmission of the infectious agent or toxin.
- (c) Quarantine: The separation and restriction of movement or activities of persons who are not ill but who are believed to have been exposed to infection to prevent transmission during the incubation or early symptomatic period if infection should occur.
- (d) Public Health Officer: That person designated by the Commissioner of the Department of Human Resources (“the Department”) to direct the activities of the Division of Public Health.
- (e) Social Distancing: Measures taken whether voluntarily or under administrative or judicial order to limit or prevent the spread of infectious or toxic conditions. Such measures may include isolation, quarantine, curfew, partial or complete closure of facilities including places of business whether public or private and restriction of movement including closing of borders or imposition of cordon sanitaire.
- (f) District Director: That person designated by the Commissioner of the Department to direct the department of health in a county or district.

Authority: O.C.G.A. Sections 31-2-1; 31-3-2.1; 31-3-4; 31-12-3 & 4; and 38-3-51.

290-5-62-0.19-.03 Authority of the Department in a Public Health Emergency or as Directed by the Governor in a General Emergency.

- (a) The Public Health Officer shall prepare a public health emergency plan defining the roles of the Division of Public Health, the district directors and the county boards of health in the event of a declaration of a public health emergency.
- (b) The public health emergency plan shall be disseminated to all district directors and said directors shall conform the district’s emergency plan with that of the department. The district directors shall disseminate the district plan to all county boards of health within their respective counties for the purpose of planning and training and for the coordination of duties in the event of a public health emergency or as directed by the Governor during a general declaration of emergency.
- (c) The Department, through the Public Health Officer and applicable district director is empowered to isolate suspected infected persons, compel vaccination and treatment, quarantine persons or groups of persons, compel evacuations and decontaminations, restrict travel within the state and cancel public gatherings.

(d) If the Public Health Officer has reasonable cause to suspect that a person may be infected with the condition that is the cause of the public health emergency or general state of emergency and that poses a risk to the public, the Public Health Officer or the applicable district director may issue an order requiring that person to submit to a medical examination at a designated facility. Said examination may include testing of blood, urine, x-ray, and other imaging procedures as are deemed necessary to determine the presence of the suspected illness or condition.

(e) The Public Health Officer or the applicable district director shall determine what method and place of quarantine or isolation is appropriate based upon the suitability of an individual's home or other designated facility and the services available.

(f) If deemed practicable by the State Public Health officer or a district director, individuals or groups shall be offered the opportunity to enter into voluntary agreements to submit to isolation, quarantine, evacuation, closure of facilities including businesses, or cancellation of public gatherings or activities.

(g) The Department through the Public Health Officer and/or a district director shall issue an administrative order for isolation, quarantine, evacuation, partial or complete closure of facilities including places of business whether public or private, and cancellation of public gatherings or activities when voluntary measures are deemed impracticable or ineffective. Said administrative orders shall become effective immediately upon issuance.

(h) The administrative order shall contain notice of the reason for the order, the duration of the order, and the right to a hearing before any available judge of the state courts, the superior courts, the Court of Appeals, or the Supreme Court.

(i) Upon attestation of the exigency of the circumstances, the judge before whom the challenge is made may proceed ex parte with respect to the state or may appoint counsel to represent the interests of the state or other unrepresented parties. The judge hearing the matter may consolidate a multiplicity of cases or, on the motion of a party or of the court, proceed to determine the interests of a class or classes. The rules of evidence applicable to civil cases shall be applied to the fullest extent practicable taking into account the circumstances of the emergency. All parties shall have the right to subpoena and cross-examine witnesses, but in enforcement of its subpoena powers the court shall take into account the circumstances of the emergency. All proceedings shall be transcribed to the extent practicable. Filing fees shall be waived and all costs borne by the state.

Authority: O.C.G.A. Sections 31-2-1; 31-3-2.1; 31-3-4; 31-12-3 & 4; and 38-3-51.

290-5-62-0.19-.04. **Authority of the County Board of Health in a Public Health Emergency or as Directed by the Governor in a General Emergency.**

(a) The county boards of health are authorized to require persons found within their respective jurisdictions to submit to vaccination except that the county must, when requested by the person, consult with the person's personal physician to ascertain whether the vaccine is safe for the person or whether there is a preferable form of the vaccine available given the person's medical condition. Only during an epidemic or extreme threat to public health can a person be compelled to receive vaccine against his or her stated objections based upon religious convictions.

(b) The county boards of health may isolate an individual whom county health officials believe has been exposed to and shows signs of illness due to exposure to an infectious agent. The infected person may be isolated at home when it is deemed appropriate by county health officials or may be isolated at a hospital or other designated location.

(c) The county board shall, after advising the individual of the nature of his or her suspected illness, its symptoms, and the expected duration of the isolation, offer the suspected infected individual the opportunity to enter into a voluntary agreement to be isolated. County personnel shall advise the individual that care, treatment, and prophylaxis where appropriate shall be provided until isolation is no longer necessary.

(d) In the event the infected individual refuses voluntary isolation, the county board of health in consultation with the county attorney shall issue an order of isolation notifying him or her of the reason for the isolation, the nature of the infectious or toxic agent, the symptoms of the infection, the location of the isolation and the expected duration of the isolation. Said notice shall also advise the infected individual of the right to a hearing before the county, as soon as practicable, upon request, the right to be represented by counsel or a personal representative, and the right to call witnesses and to question the county's witnesses. The notice shall advise of the right to an appeal to the superior court of the county if the order occurred under an actual declaration of a public health emergency or in all other times to the Department.

The county board of health shall inform the applicable district director of its intention to detain and isolate an individual before an order is issued or as soon after as practicable.

Authority: O.C.G.A. Sections 31-2-1; 31-3-2.1; 31-3-4; 31-12-3 & 4; and 38-3-51.

290-5-62-0.19-.05. **Enforcement.**

(a) Department and the county boards of health and their duly authorized agents shall enforce the regulation.

(b) In addition to the remedies provided by this regulation, the department and the county boards of health and their duly authorized agents may apply for injunctive relief to enforce provisions of this regulation in any court of competent jurisdiction.

Authority: O.C.G.A. Sections 31-2-1; 31-3-2.1; 31-3-4; 31-12-3 & 4, 31-5-8; and 38-3-51.

290-5-62-0.19-.06. **Penalties.**

Individuals found in violation of the Act shall be guilty of a misdemeanor and, if convicted, shall be punished by a fine not less than \$100.00 and not more than \$500.00

Authority: O.C.G.A. Sections 31-2-1; 31-3-2.1; 31-3-4; 31-12-3 & 4; and 38-3-51.

290-5-62-0.19-.07. **Severability.**

In the event that a rule, sentence, clause or phrase of any of these rules and regulations may be construed by any court of competent jurisdiction to be invalid, illegal, unconstitutional or otherwise unenforceable, such determination or adjudication shall in no manner affect the remaining rules or portions thereof. The remaining rules or portions thereof shall remain in full force and effect, as if such rule or portions thereof so determined, declared or adjudged invalid or unconstitutional were not originally a part of these rules.

Authority: O.C.G.A. Sections 31-2-1; 31-3-2.1; 31-3-4; 31-12-3 & 4; and 38-3-51.