

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
Directed Health Measure Order 2021-003

Pursuant to Neb. Rev. Stat. §§ 71-502 and 81-601 and Title 173 Neb. Admin. Code Ch. 6 the Nebraska Department of Health and Human Services (“Department”) may exercise its authority to order Directed Health Measures necessary to prevent the spread of communicable disease, illness, or poisoning. The objectives of this order are to reduce morbidity and mortality; ensure sufficient hospital capacity to meet public health needs; protect health care personnel and preserve health care system functioning.

Having reviewed information from the United States Department of Health and Human Services Centers for Disease Control and Prevention (“CDC”), local public health departments, treating health care providers and health care facilities, and other public health, security, and law enforcement authorities; having consulted with medical and communicable disease control personnel of the Department; and having considered directives and guidelines issued by the CDC and other public health authorities, the Director finds as follows:

That the health of the people of the entire state or any locality is menaced by or exposed to a contagious, infectious, or epidemic disease, illness, or poisoning.

That a member or members of the public have been exposed to a contagious, infectious, or epidemic disease, illness, or poisoning.

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

That current hospital capacity and healthcare resources are reaching near capacity, and that the immediate implementation of the following Directed Health Measure is necessary to preserve sufficient hospital capacity and health care resources to ensure public health needs can be met.

That hospital capacity and health care resources including health care personnel hours and/or medical supplies, such as personal protective equipment, are being depleted by elective surgeries and elective procedures and that a shortage of hospital capacity or health care resources will hinder efforts of health care personnel and health care facilities to treat persons who require non-elective treatment or non-elective procedures.

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 due to the depletion of hospital capacity and health care resources.

That the following Directed Health Measures have been identified as effective against public health threats by the CDC and other similar public health authorities to effectively prevent, limit, or slow the spread of communicable disease or illness and preserve statewide hospital capacity and healthcare resources.

I. Based on conditions in the following areas, the following Directed Health Measures are hereby ordered for Adams, Antelope, Arthur, Banner, Blaine, Boone, Box Butte, Boyd, Brown, Buffalo, Burt, Butler, Cass, Cedar, Chase, Cherry, Cheyenne, Clay, Colfax, Cumming, Custer, Dakota, Dawes, Dawson, Deuel, Dixon, Dodge, Douglas, Dundy, Fillmore, Franklin, Frontier, Furnas, Gage, Garden, Garfield, Gosper, Grant, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Holt, Hooker, Howard, Jefferson, Johnson, Kearney, Keith, Keya Paha, Kimball, Knox, Lancaster, Lincoln, Logan, Loup, Madison, McPherson, Merrick, Morrill, Nance, Nemaha, Nuckolls, Otoe, Pawnee, Perkins, Phelps, Pierce, Platte, Polk, Red Willow, Richardson, Rock, Saline, Sarpy, Saunders, Scotts Bluff, Seward, Sheridan, Sherman, Sioux, Stanton, Thayer, Thomas, Thurston, Valley, Washington, Wayne, Webster, Wheeler, and York counties, effective 12:01 AM, September 30th, 2021 and continuing through 11:59 PM, October 21st, 2021; unless renewed, extended, or terminated by subsequent order, all persons in all the aforementioned county(s) are ordered to comply:

1. Elective surgeries and elective procedures are hereby restricted for all Acute Care Hospitals, Critical Care Hospitals and Children's Hospitals. All inpatient Class D & E surgeries must be postponed until further notice. For the purposes of this Order, this means a surgery or procedure that is scheduled in advance because it does not involve a medical emergency. Surgeries or procedures that must be done to preserve the patient's life or physical health, but do not need to be performed immediately, are allowed on a case-by-case determination of the medical provider

II. This order supersedes previous Directed Health Measure Orders 2021-001 and 2021-002 for the aforementioned county(s), provided, this Order does not supersede the provisions of any Directed Health Measure(s) issued by Local Health Departments, except that the Directed Health Measures contained in this order are binding and enforceable regardless of any Directed Health Measure(s) issued by Local Health Departments or municipalities.

This Order will remain in effect no longer than necessary to ensure that hospital capacity and healthcare resources are sufficient to meet public health needs and that individuals or groups affected by communicable disease, illness, or poisoning no longer pose a public health threat.

Failure to comply with this Order will result in legal action for enforcement by civil and/or criminal remedies.

In the event of noncompliance with the terms of this Order, 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.

Any person subject to this Order may request a contested case hearing to contest the validity of the Order. A request can be made to the DHHS Hearing Office by fax at 402-742-2376 or requested by phone at 402-471-7237.

Upon request, the Department will schedule a hearing to be held as soon as reasonably possible under the circumstances. Unless requested 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.

The parties to the hearing will be limited to the Department and requesting party unless one or more additional persons have requested contested case hearings on substantially identical issues; the interests of administrative economy require that the matters be consolidated; and no party would be prejudiced by consolidation, in which case notice of the consolidation will issue.

A party may be represented by counsel at the party's own expense, or may appear *pro se* if a natural person.

Reasonable prior notice of the time and place for hearing will be given. The hearing may be conducted in whole or in part by telephone.

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.

For the Nebraska Department of Health and Human Services:



Gary Anthone, MD
Chief Medical Officer/Director of Public Health

10-21-21
Date

Pursuant to Title 173 Neb. Admin. Code. Ch. 6, 007.02, this Order has been provided to and shall be disseminated through mass media.