

No. 4-22-0090

IN THE
APPELLATE COURT OF ILLINOIS
FOURTH JUDICIAL DISTRICT

ROBERT GRAVES and KIM GRAVES)	Interlocutory Appeal from the
As Parents and Guardian of K.G.,)	Circuit Court from the Seventh
Et al.,)	Judicial Circuit, Sangamon County
)	Illinois.
Plaintiffs-Respondents,)	
)	
vs.)	
)	No. 2021-CH-500003
JAY ROBERT PRITZKER, in his capacity)	
As Governor of Illinois,)	
Et al.,)	
)	
Defendants-Petitioners)	
)	The Honorable
PLAINFIELD COMMUNITY)	RAYLENE D. GRISCHOW
CONSOLIDATED DISTRICT #202,)	Judge Presiding
Et al.,)	

**RESPONSE TO APPELLATE COURT ORDER
DATED FEBRUARY 15th, 2022**

NOW COME Plaintiff-Respondents, and in response to this Honorable Court’s inquiry concerning the actions of the Joint Committee of Administrative Rules (hereinafter “JCAR”) they respond as follows:

INTRODUCTION

The Complaints filed herein raised four main questions to the court: 1) were the Governor’s actions in the issuance of the executive orders outside the confines of his statutory authority; 2); were the IDPH emergency rules valid due to their failure to follow appropriate promulgated procedures set forth in the Illinois Administrative Procedures Act; 3) were the IDPH emergency rules valid due to their attempted assignment of health department authority in matters of quarantine, testing, and vaccinations to local schools; and 4) do schools have inherent

authority to mandate quarantine, testing, and vaccination procedures a violation of due process rights given the provision of the Illinois Department of Public Health Act. See 20 ILCS 2305(c).

After a hearing on these issues, the Circuit Court indicated the relative factors of the TRO had been satisfied and noted Plaintiffs had shown a likelihood of success in proving the 1) Governor's actions violated the separation of powers doctrine and were in violation of the Illinois Emergency Management Agency Act (hereinafter "IEMA") when the Executive Orders were issued; 2) the IDPH emergency rules were invalid; and 3) school districts did not have independent authority to mandate masking, testing, and/or vaccinations in violation of the IDPHA.

On or about February 13th, 2022, the emergency rules adopted by the Illinois Department of Public Health (hereinafter "IDPH") on September 17th, 2021 expired. The IDPH published new emergency rules on February 14th, 2022 despite the TRO that indicated the emergency rules were void (at least in the context of the named Plaintiff's to the lawsuit). *See attached Exhibit A.* On February 15th, 2022, JCAR reviewed the emergency rules and voted to block the reimplementing of the previous emergency rules, as well as the proposed amendments, by the IDPH.

ANALYSIS

The State-Party Defendants in the filing of their Petition for Review of the Temporary Restraining Order argued, in part, that the Illinois Department of Public Health Act (hereinafter "IDPHA") did not apply to the situation at hand because the emergency rules struck the definitions of quarantine from the Communicable Disease Code. 77 Ill. Admin. Code. 690.30. *See page 3 and 4 of the State's Memorandum in Support of Rule 307(d) Review of TRO.* JCAR's unwillingness to implement the emergency rules on February 15th, 2022 vitiates the State's argument as to this point in their Memorandum. As of February 15th, 2022, the word "exclusion" is no longer set forth in the Communicable Disease Code thus it is clear "quarantine" encompasses the "exclusion of children from school" and the "masking of children" in 77 Ill. Admin. Code 690.30 as noted in the State's Memorandum. On an interlocutory basis, it is

important to note the circuit court is only to “determine whether a fair question is raised as to the existence of a right that needs protection and it is not, at this time, to decide controverted facts or *ultimate merits of the case.*” *Stenstrom Petroleum Services Group, Inc. v. Mesch*, 375 Ill. App. 3d 1077, 1089, 874 N.E. 2d 959 (2d Dist. 2007); *Emphasis Added*. Given the emergency rules are not in controversy at this time because of JCAR’s refusal to implement the emergency rules on February 15th, 2022, the State-Defendant’s challenge of the validity of the emergency rules is moot for review at this time.

It is acknowledged, the circuit court may still have to address the final merits of the validity of the emergency rules. After the final merits of the case have been decided, “the reviewing court may choose to rule on such a question if it concerns a matter of public interest which is likely to reoccur and upon which public officials need guidance.” *Knight v. Board of Education of Tri-Point Community Unit School Dist. No. 6J.*, 348 N.E. 2d. 299, 303, 38 Ill. App. 3d 603 (Ill. App. 1976); citing *People v. Labrenz*, 411 Ill. 618, 104 N.E.2d 769. This is a discretionary standard for the reviewing court, but it is not ripe for consideration at this time given the final merits of the case have not been decided.

The State-Party Defendant’s further argued the Governor did not violate the separation of powers doctrine in the issuance of his executive orders, because he had statutory authority to do so under the provisions of the Illinois Emergency Management Agency Act (hereinafter “IEMA”). As to this argument, the JCAR committees’ actions do not carry the effect of voiding the Governor’s Executive Orders. On or about January 11th, 2022, the Governor republished provision of Executive Order 2021-24 by way of Executive Order 2022-03 once again adopting the definition of “exclusion” and redefining “quarantine” as set forth in the IDPHA. On February 4th, 2022, the Governor issued Executive 2022-05 which renewed Executive Order 2021-18 in its entirety and renewed portions of Executive Order 2021-24. As of February 16th, 2021, school districts are continuing to rely on the Executive Orders as basis to quarantine children (whether in the form of masking or removal from school) because of the executive orders that are currently in effect. Under an abuse of discretion analysis, the appellate court may still answer the question of whether the Plaintiffs had shown a likelihood of success that the

Governor's actions were outside the scope of his authority, because JCAR's actions do not specifically void any such executive orders.

Finally, arguments were made that the school districts had independent authority as to issues of masking, exclusion, testing, and vaccinations pursuant to provisions of the Illinois School Code. It was determined by the circuit court that the Plaintiff's had shown a likelihood of success on the merits noting the IDPHA, rather than the Illinois School Code, was the controlling statute in matters of masking, exclusion, testing, and vaccinations. As such, school districts were required to afford students and facility the due process protections outlined in the IDPHA prior to removal of students and staff from district buildings. It should be noted, the Illinois State Board of Education did not take steps to reimplement emergency rules relative to masking, exclusion, testing, and/or vaccinations which would have directly impacted local schools. The JCAR ruling was only directed at the IDPH and did not appear to be directed specifically at local schools. As such, under an abuse of discretion analysis, the appellate court may still answer the question of whether Plaintiffs had shown a likelihood of success that local school districts lacked authority to mandate masking, testing, and vaccinations because the IDPHA, rather than the Illinois School Code, applied to the issues at hand.

Respectfully Submitted,

Dated: 2/8/2022

By: /s/ William J. Gerber
William J. Gerber, their attorney

Prepared By:
William J. Gerber
Attorney at Law
Law Office of William J. Gerber, LLC
210 West Oak Street
Fairbury IL 61739
Telephone: 815.692.2224
Facsimile: 815.692.8227
Email: will@gerberlaw.net
ARDC #: 6303375

William J. Gerber
Law Office of William J. Gerber, LLC
210 W. Oak Street
Fairbury IL 61739
Telephone: 815.692.2224
Facsimile: 815.692.4223
Email: will@gerberlaw.net
ARDC: 6303375

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NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Control of Communicable Diseases Code
- 2) Code Citation: 77 Ill. Adm. Code 690
- 3)

<u>Section Numbers</u> :	<u>Emergency Actions</u> :
690.10	Amendment
690.361	Amendment
690.1380	Amendment
690.1385	Amendment
- 4) Statutory Authority: Communicable Disease Report Act [745 ILCS 45] and Department of Public Health Act [20 ILCS 2305]
- 5) Effective Date of Rule: February 14, 2022¹
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which they are to expire: The emergency rulemaking will expire at the end of the 150-day period, upon repeal of the emergency rulemaking, or upon adoption of a permanent rulemaking, whichever comes first.
- 7) Date Filed with the Index Department: FEB 14 2022
- 8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This renewal of the emergency amendments to this Part filed on September 17, 2021 at 45 Ill. Reg. 12123, including the subsequent emergency amendment adopted on January 12, 2022 at 46 Ill. Reg. 1956, is adopted in response to the COVID-19 public health emergency and Governor JB Pritzker's Gubernatorial Disaster Proclamations related to COVID-19.

All counties in the State of Illinois have been declared a disaster area due to the COVID-19 public health emergency by Gubernatorial Disaster Proclamation since March 13, 2020. On February 4, 2022, a Gubernatorial Disaster Proclamation again cited the

¹ The September 17, 2021 emergency amendment to this Part is subject to review in the consolidated appellate case *Graves v. Pritzker*, No. 4-22-0090, 4-22-0092, 4-22-0093, 4-22-0094 (Ill. App. Ct. 4th Dist.).

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SOS-CODE DIV.

Exhibit
A

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ongoing and continuing spread of COVID-19 to declare a disaster area in all counties in the State of Illinois. The renewal of this emergency rule is required to respond to the ongoing and continuing spread of COVID-19 in Illinois, especially among school-aged children. Because young children are still not vaccine eligible, and because the vaccination rates of individuals aged 5-17 continues to be lower than the rates of adults aged 18 and older, schools are at far greater risk of significant outbreaks than the general population. These circumstances constitute an emergency that necessitates the renewal of the emergency amendments to this Part upon fewer days than would otherwise be required by Section 5-40.

Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100/5-45] defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." The COVID-19 outbreak in Illinois is a significant public health crisis that warrants these emergency rules.

- 10) A Complete Description of the Subject and Issues: This rule amends Section 690.10, Definitions, to delete the terms "Isolation, Modified" and "Quarantine, Modified" and to revise the definition of "Quarantine." This rule also amends Section 690.361, Coronavirus, Novel, including Coronavirus Disease 19 (COVID-19), Severe Acute Respiratory Syndrome (SARS), and Middle Eastern Respiratory Syndrome (MERS) (Reportable by telephone immediately (within 3 hours) upon initial clinical suspicion of the disease), to provide detailed procedures for handling the occurrence of COVID-19 in schools. Additionally, the rule amends Section 690.1380, Physical Examination, Testing and Collection of Laboratory Specimens, to clarify that nothing in that Section limits the ability of schools, employers, or other institutions to conduct or require physical examinations and tests. Further, the rule amends Section 690.1385, Vaccinations, Medications, or Other Treatments, to clarify that nothing in that Section limits the ability of schools, employers, or other institutions to require vaccinations.
- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate.
- 13) Information and questions regarding this emergency rulemaking shall be directed to:

Department of Public Health
Attention: Tracey Trigillo, Rules Coordinator

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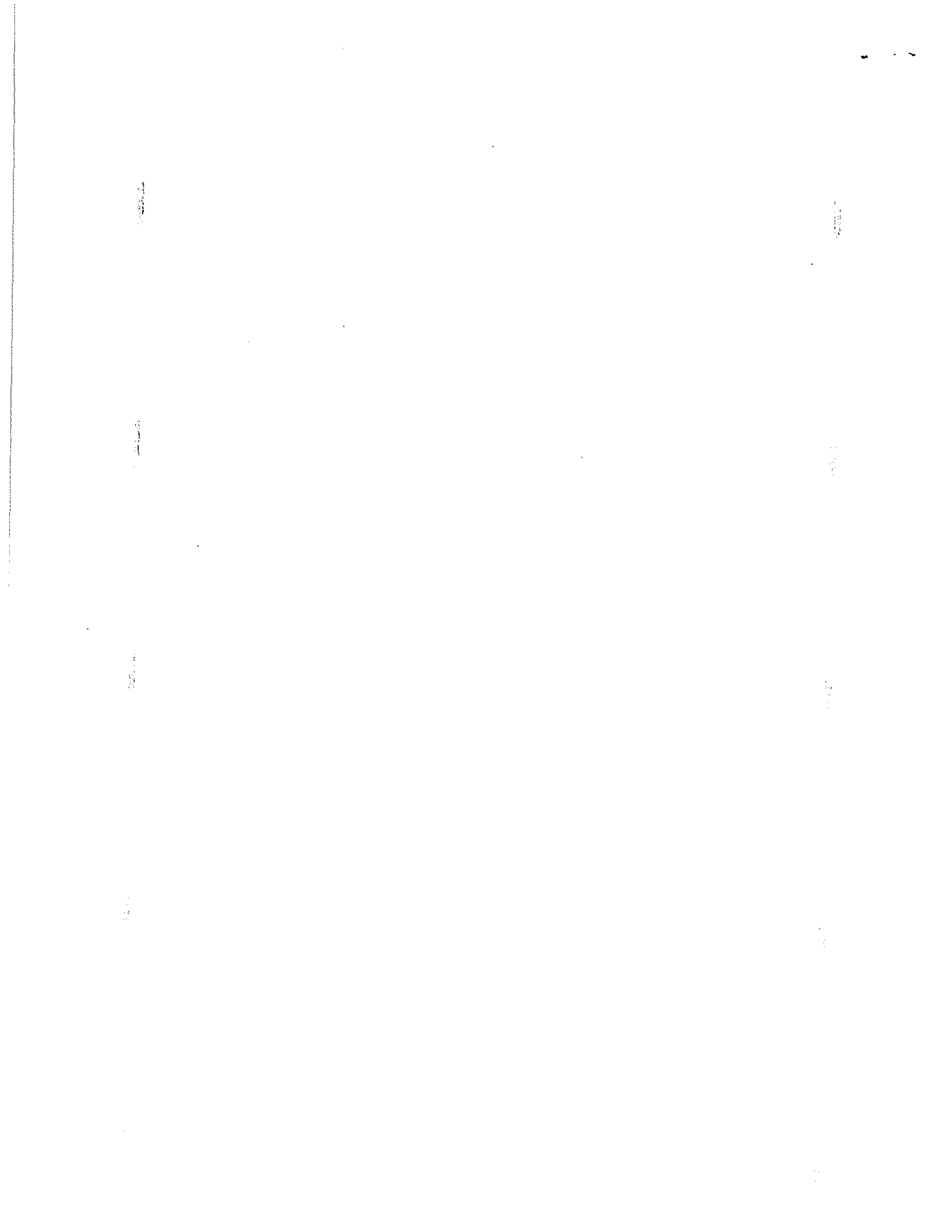
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Lincoln Plaza
524 South 2nd Street, 6th Floor
Springfield, IL 62701

(217)782-1159
dph.rules@illinois.gov

The full text of the emergency amendments begins on the next page:



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NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 690

CONTROL OF COMMUNICABLE DISEASES CODE

SUBPART A: GENERAL PROVISIONS

Section

690.10 Definitions

EMERGENCY

690.20 Incorporated and Referenced Materials

690.30 General Procedures for the Control of Communicable Diseases

SUBPART B: REPORTABLE DISEASES AND CONDITIONS

Section

690.100 Diseases and Conditions

690.110 Diseases Repealed from This Part

SUBPART C: REPORTING

Section

690.200 Reporting

SUBPART D: DETAILED PROCEDURES FOR THE CONTROL
OF COMMUNICABLE DISEASES

Section

690.290 Acquired Immunodeficiency Syndrome (AIDS) (Repealed)

690.295 Any Unusual Case of a Disease or Condition Caused by an Infectious Agent Not Listed in this Part that is of Urgent Public Health Significance (Reportable by telephone immediately (within three hours))

690.300 Amebiasis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)

690.310 Animal Bites (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)

690.320 Anthrax (Reportable by telephone immediately, within three hours, upon initial clinical suspicion of the disease)

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- 690.322 Arboviral Infections (Including, but Not Limited to, Chikungunya Fever, California Encephalitis, St. Louis Encephalitis, Dengue Fever and West Nile Virus) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.325 Blastomycosis (Reportable by telephone as soon as possible, within 7 days) (Repealed)
- 690.327 Botulism, Foodborne, Intestinal Botulism (Formerly Infant), Wound, or Other (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease for foodborne botulism or within 24 hours by telephone or facsimile for other types)
- 690.330 Brucellosis (Reportable by telephone as soon as possible (within 24 hours), unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours) by telephone)
- 690.335 Campylobacteriosis (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.340 Chancroid (Repealed)
- 690.350 Chickenpox (Varicella) (Reportable by telephone, facsimile or electronically, within 24 hours)
- 690.360 Cholera (Toxigenic *Vibrio cholerae* O1 or O139) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.361 Coronavirus, Novel, including Coronavirus Disease 19 (COVID-19), Severe Acute Respiratory Syndrome (SARS) and Middle Eastern Respiratory Syndrome (MERS). (Reportable by telephone immediately (within 3 hours) upon initial clinical suspicion of the disease)

EMERGENCY

- 690.362 Creutzfeldt-Jakob Disease (CJD) (All Laboratory Confirmed Cases) (Reportable by mail, telephone, facsimile or electronically within Seven days after confirmation of the disease) (Repealed)
- 690.365 Cryptosporidiosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.368 Cyclosporiasis (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.370 Diarrhea of the Newborn (Reportable by telephone as soon as possible, within 24 hours) (Repealed)
- 690.380 Diphtheria (Reportable by telephone immediately, within three hours, upon initial clinical suspicion or laboratory test order)
- 690.385 Ehrlichiosis, Human Granulocytotropic anaplasmosis (HGA) (See Tickborne Disease)
- 690.386 Ehrlichiosis, Human Monocytotropic (HME) (See Tickborne Disease)
- 690.390 Encephalitis (Reportable by mail, telephone, facsimile or electronically as soon as

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- possible, within 7 days) (Repealed)
- 690.400 Escherichia coli Infections (E. coli O157:H7 and Other Shiga Toxin Producing E. coli) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.410 Foodborne or Waterborne Illness (Reportable by telephone or facsimile as soon as possible, within 24 hours) (Repealed)
- 690.420 Giardiasis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.430 Gonorrhea (Repealed)
- 690.440 Granuloma Inguinale (Repealed)
- 690.441 Haemophilus Influenzae, Meningitis and Other Invasive Disease (Reportable by telephone or facsimile, within 24 hours)
- 690.442 Hantavirus Pulmonary Syndrome (Reportable by telephone as soon as possible, within 24 hours)
- 690.444 Hemolytic Uremic Syndrome, Post-diarrheal (Reportable by telephone or facsimile, within 24 hours)
- 690.450 Hepatitis A (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.451 Hepatitis B and Hepatitis D (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.452 Hepatitis C, Acute Infection and Non-acute Confirmed Infection (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.453 Hepatitis, Viral, Other (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.460 Histoplasmosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.465 Influenza, Death (in persons less than 18 years of age) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.468 Influenza (Laboratory Confirmed (Including Rapid Diagnostic Testing)) Intensive Care Unit Admissions (Reportable by telephone or facsimile or electronically as soon as possible, within 24 hours)
- 690.469 Influenza A, Variant Virus (Reportable by telephone immediately, within three hours upon initial clinical suspicion or laboratory test order)
- 690.470 Intestinal Worms (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.475 Legionellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.480 Leprosy (Hansen's Disease) (Infectious and Non-infectious Cases are Reportable) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days) (Repealed)
- 690.490 Leptospirosis (Reportable by mail, telephone, facsimile or electronically as soon

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- as possible, within seven days)
- 690.495 Listeriosis (When Both Mother and Newborn are Positive, Report Mother Only) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.500 Lymphogranuloma Venereum (Lymphogranuloma Inguinale Lymphopathia Venereum) (Repealed)
- 690.505 Lyme Disease (See Tickborne Disease)
- 690.510 Malaria (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.520 Measles (Reportable by telephone as soon as possible, within 24 hours)
- 690.530 Meningitis, Aseptic (Including Arboviral Infections) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.540 Meningococemia (Reportable by telephone as soon as possible) (Repealed)
- 690.550 Mumps (Reportable by telephone, facsimile or electronically as soon as possible, within 24 hours)
- 690.555 Neisseria meningitidis, Meningitis and Invasive Disease (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.560 Ophthalmia Neonatorum (Gonococcal) (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.565 Outbreaks of Public Health Significance (Including, but Not Limited to, Foodborne or Waterborne Outbreaks) (Reportable by telephone or electronically as soon as possible, within 24 hours)
- 690.570 Plague (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease)
- 690.580 Poliomyelitis (Reportable by telephone immediately, within three hours) upon initial clinical suspicion of the disease)
- 690.590 Psittacosis (Ornithosis) Due to Chlamydia psittaci (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.595 Q-fever Due to Coxiella burnetii (Reportable by telephone as soon as possible, within 24 Hours, unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours) by telephone)
- 690.600 Rabies, Human (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.601 Rabies, Potential Human Exposure and Animal Rabies (Reportable by telephone or facsimile, within 24 hours)
- 690.610 Rocky Mountain Spotted Fever (See Tickborne Disease)
- 690.620 Rubella (German Measles) (Including Congenital Rubella Syndrome) (Reportable by telephone, facsimile or electronically as soon as possible, within 24 hours)
- 690.630 Salmonellosis (Other than Typhoid Fever) (Reportable by mail, telephone,

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- 690.635 facsimile or electronically as soon as possible, within seven days)
Severe Acute Respiratory Syndrome (SARS) (Reportable by telephone immediately (within 3 hours) upon initial clinical suspicion of the disease) (Repealed)
- 690.640 Shigellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.650 Smallpox (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease)
- 690.655 Smallpox vaccination, complications of (Reportable by telephone or electronically as soon as possible, within 24 hours)
- 690.658 Staphylococcus aureus, Methicillin Resistant (MRSA) Infection, Clusters of Two or More Laboratory Confirmed Cases Occurring in Community Settings (Including, but Not Limited to, Schools, Correctional Facilities, Day Care and Sports Teams) (Reportable by telephone or facsimile as soon as possible, within 24 hours) (Repealed)
- 690.660 Staphylococcus aureus, Methicillin Resistant (MRSA), Any Occurrence in an Infant Less Than 61 Days of Age (Reportable by telephone or facsimile or electronically as soon as possible, within 24 hours) (Repealed)
- 690.661 Staphylococcus aureus Infections with Intermediate (Minimum inhibitory concentration (MIC) between 4 and 8) (VISA) or High Level Resistance to Vancomycin (MIC greater than or equal to 16) (VRSA) (Reportable by telephone or facsimile, within 24 hours)
- 690.670 Streptococcal Infections, Group A, Invasive Disease (Including Streptococcal Toxic Shock Syndrome and Necrotizing fasciitis) (Reportable by telephone or facsimile, within 24 hours)
- 690.675 Streptococcal Infections, Group B, Invasive Disease, of the Newborn (birth to 3 months) (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.678 Streptococcus pneumoniae, Invasive Disease in Children Less than 5 Years (Including Antibiotic Susceptibility Test Results) (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.680 Syphilis (Repealed)
- 690.690 Tetanus (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.695 Toxic Shock Syndrome due to Staphylococcus aureus Infection (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.698 Tickborne Disease (Includes Babesiosis, Ehrlichiosis, Anaplasmosis, Lyme Disease and Spotted Fever Rickettsiosis) (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.700 Trachoma (Repealed)
- 690.710 Trichinosis (Trichinellosis) (Reportable by mail, telephone, facsimile or

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- electronically as soon as possible, within seven days)
- 690.720 Tuberculosis (Repealed)
- 690.725 Tularemia (Reportable by telephone as soon as possible, within 24 hours, unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours))
- 690.730 Typhoid Fever (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.740 Typhus (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.745 Vibriosis (Other than Toxigenic *Vibrio cholera* O1 or O139) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.750 Pertussis (Whooping Cough) (Reportable by telephone as soon as possible, within 24 hours)
- 690.752 Yersiniosis (Reportable by mail, telephone, facsimile or electronically, within seven days) (Repealed)
- 690.800 Any Suspected Bioterrorist Threat or Event (Reportable by telephone immediately, within 3 hours upon initial clinical suspicion of the disease)

SUBPART E: DEFINITIONS

- Section
690.900 Definition of Terms (Renumbered)

SUBPART F: GENERAL PROCEDURES

- Section
690.1000 General Procedures for the Control of Communicable Diseases (Renumbered)
690.1010 Incorporated and Referenced Materials (Renumbered)

SUBPART G: SEXUALLY TRANSMITTED DISEASES

- Section
690.1100 The Control of Sexually Transmitted Diseases (Repealed)

SUBPART H: PROCEDURES FOR WHEN DEATH OCCURS FROM COMMUNICABLE DISEASES

- Section
690.1200 Death of a Person Who Had a Known or Suspected Communicable Disease
690.1210 Funerals (Repealed)

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SUBPART I: ISOLATION, QUARANTINE, AND CLOSURE

Section

- 690.1300 General Purpose
- 690.1305 Department of Public Health Authority
- 690.1310 Local Health Authority
- 690.1315 Responsibilities and Duties of the Certified Local Health Department
- 690.1320 Responsibilities and Duties of Health Care Providers
- 690.1325 Conditions and Principles for Isolation and Quarantine
- 690.1330 Order and Procedure for Isolation, Quarantine and Closure
- 690.1335 Isolation or Quarantine Premises
- 690.1340 Enforcement
- 690.1345 Relief from Isolation, Quarantine, or Closure
- 690.1350 Consolidation
- 690.1355 Access to Medical or Health Information
- 690.1360 Right to Counsel
- 690.1365 Service of Isolation, Quarantine, or Closure Order
- 690.1370 Documentation
- 690.1375 Voluntary Isolation, Quarantine, or Closure
- 690.1380 Physical Examination, Testing and Collection of Laboratory Specimens

EMERGENCY

- 690.1385 Vaccinations, Medications, or Other Treatments

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- 690.1390 Observation and Monitoring
- 690.1400 Transportation of Persons Subject to Public Health or Court Order
- 690.1405 Information Sharing
- 690.1410 Amendment and Termination of Orders
- 690.1415 Penalties

SUBPART J: REGISTRIES

Section

- 690.1500 Extensively Drug-Resistant Organism Registry
- 690.1510 Entities Required to Submit Information
- 690.1520 Information Required to be Reported
- 690.1530 Methods of Reporting XDRO Registry Information
- 690.1540 Availability of Information

- 690.EXHIBIT A Typhoid Fever Agreement (Repealed)

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AUTHORITY: Implementing the Communicable Disease Report Act [745 ILCS 45] and implementing and authorized by the Department of Public Health Act [20 ILCS 2305].

SOURCE: Amended July 1, 1977; emergency amendment at 3 Ill. Reg. 14, p. 7, effective March 21, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 52, p. 131, effective December 7, 1979; emergency amendment at 4 Ill. Reg. 21, p. 97, effective May 14, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 38, p. 183, effective September 9, 1980; amended at 7 Ill. Reg. 16183, effective November 23, 1983; codified at 8 Ill. Reg. 14273; amended at 8 Ill. Reg. 24135, effective November 29, 1984; emergency amendment at 9 Ill. Reg. 6331, effective April 18, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9124, effective June 3, 1985; amended at 9 Ill. Reg. 11643, effective July 19, 1985; amended at 10 Ill. Reg. 10730, effective June 3, 1986; amended at 11 Ill. Reg. 7677, effective July 1, 1987; amended at 12 Ill. Reg. 10045, effective May 27, 1988; amended at 15 Ill. Reg. 11679, effective August 15, 1991; amended at 18 Ill. Reg. 10158, effective July 15, 1994; amended at 23 Ill. Reg. 10849, effective August 20, 1999; amended at 25 Ill. Reg. 3937, effective April 1, 2001; amended at 26 Ill. Reg. 10701, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 592, effective January 2, 2003, for a maximum of 150 days; emergency expired May 31, 2003; amended at 27 Ill. Reg. 10294, effective June 30, 2003; amended at 30 Ill. Reg. 14565, effective August 23, 2006; amended at 32 Ill. Reg. 3777, effective March 3, 2008; amended at 37 Ill. Reg. 12063, effective July 15, 2013; recodified at 38 Ill. Reg. 5408; amended at 38 Ill. Reg. 5533, effective February 11, 2014; emergency amendment at 38 Ill. Reg. 21954, effective November 5, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 4116, effective March 9, 2015; amended at 39 Ill. Reg. 11063, effective July 24, 2015; amended at 39 Ill. Reg. 12586, effective August 26, 2015; amended at 40 Ill. Reg. 7146, effective April 21, 2016; amended at 43 Ill. Reg. 2386, effective February 8, 2019; emergency amendment at 44 Ill. Reg. 9282, effective May 15, 2020, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 44 Ill. Reg. 10000, effective May 20, 2020; emergency amendment at 44 Ill. Reg. 13473, effective August 3, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. 20145, effective December 9, 2020; emergency amendment at 44 Ill. Reg. 13807, effective August 7, 2020, for a maximum of 150 days; emergency rule expired January 3, 2021; emergency amendment at 45 Ill. Reg. 987, effective January 4, 2021, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 45 Ill. Reg. 6777, effective May 17, 2021, for the remainder of the 150 days; emergency amendment at 45 Ill. Reg. 12123, effective September 17, 2021, for a maximum of 150 days, emergency amendment to emergency rule at 46 Ill. Reg. 1956, effective January 12, 2022, for the remainder of the 150 days; emergency expired February 13, 2022; emergency amendment at 46 Ill. Reg. _____, effective February 14, 2022, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

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Section 690.10 Definitions

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"Acceptable Laboratory" – A laboratory that is certified under the Centers for Medicare and Medicaid Services, Department of Health and Human Services, Laboratory Requirements (42 CFR 493), which implements the Clinical Laboratory Improvement Amendments of 1988 (42 USC 263).

"Act" – The Department of Public Health Act of the Civil Administrative Code of Illinois [20 ILCS 2305].

"Airborne Precautions" or "Airborne Infection Isolation Precautions" – Infection control measures designed to reduce the risk of transmission of infectious agents that may be suspended in the air in either dust particles or small particle aerosols (airborne droplet nuclei (5 µm or smaller in size)) (see Section 690.20(a)(7)).

"Authenticated Fecal Specimen" – A specimen for which a public health authority or a person authorized by a public health authority has observed either or both the patient producing the specimen or conditions under which no one other than the case, carrier or contact could be the source of the specimen.

"Bioterrorist Threat or Event" – The intentional use of any microorganism, virus, infectious substance or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any microorganism, virus, infectious substance, or biological product, to cause death, disease or other biological malfunction in a human, an animal, a plant or another living organism.

"Business" – A person, partnership or corporation engaged in commerce, manufacturing or a service.

"Carbapenem Antibiotics" – A class of broad-spectrum beta-lactam antibiotics.

"Carrier" – A living or deceased person who harbors a specific infectious agent in the absence of discernible clinical disease and serves as a potential source of infection for others.

"Case" – Any living or deceased person having a recent illness due to a communicable disease.

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"Confirmed Case" – A case that is classified as confirmed in accordance with federal or State case definitions.

"Probable Case" – A case that is classified as probable in accordance with federal or State case definitions.

"Suspect Case" – A case whose medical history or symptoms suggest that the person may have or may be developing a communicable disease and who does not yet meet the definition of a probable or confirmed case.

"Certified Local Health Department" – A local health authority that is certified pursuant to Section 600.210 of the Certified Local Health Department Code (77 Ill. Adm. Code 600).

"Chain of Custody" – The methodology of tracking specimens for the purpose of maintaining control and accountability from initial collection to final disposition of the specimens and providing for accountability at each stage of collecting, handling, testing, storing, and transporting the specimens and reporting test results.

"Child Care Facility" – A center, private home, or drop-in facility open on a regular basis where children are enrolled for care or education.

"Cleaning" – The removal of visible soil (organic and inorganic material) from objects and surfaces, normally accomplished by manual or mechanical means using water with detergents or enzymatic products.

"Clinical Materials" – A clinical isolate containing the infectious agent, or other material containing the infectious agent or evidence of the infectious agent.

"Cluster" – Two or more persons with a similar illness, usually associated by place or time, unless defined otherwise in Subpart D.

"Communicable Disease" – An illness due to a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal or inanimate source to a susceptible host, either directly or indirectly through an intermediate plant or animal host, a vector or the inanimate environment.

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"Contact" – Any person known to have been sufficiently associated with a case or carrier of a communicable disease to have been the source of infection for that person or to have been sufficiently associated with the case or carrier of a communicable disease to have become infected by the case or carrier; and, in the opinion of the Department, there is a risk of the individual contracting the contagious disease. A contact can be a household or non-household contact.

"Contact Precautions" – Infection control measures designed to reduce the risk of transmission of infectious agents that can be spread through direct contact with the patient or indirect contact with potentially infectious items or surfaces (see Section 690.20(a)(7)).

"Contagious Disease" – An infectious disease that can be transmitted from person to person by direct or indirect contact.

"Dangerously Contagious or Infectious Disease" – An illness due to a specific infectious agent or its toxic products that arises through transmission of that agent or its products from an infected person, animal or inanimate reservoir to a susceptible host, either directly or indirectly through an intermediate plant or animal host, a vector or the inanimate environment, and may pose an imminent and significant threat to the public health, resulting in severe morbidity or high mortality.

"Decontamination" – A procedure that removes pathogenic microorganisms from objects so they are safe to handle, use or discard.

"Department" – The Illinois Department of Public Health or designated agent.

"Diarrhea" – The occurrence of three or more loose stools within a 24-hour period.

"Director" – The Director of the Department, or his or her duly designated officer or agent.

"Disinfection" – A process, generally less lethal than sterilization, that eliminates virtually all recognized pathogenic microorganisms, but not necessarily all microbial forms (e.g., bacterial spores).

"Droplet Precautions" – Infection control measures designed to reduce the risk of transmission of infectious agents via large particle droplets that do not remain

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suspended in the air and are usually generated by coughing, sneezing, or talking (see Section 690.20(a)(7)).

"Emergency" – An occurrence or imminent threat of an illness or health condition that:

is believed to be caused by any of the following:

bioterrorism;

the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin;

a natural disaster;

a chemical attack or accidental release; or

a nuclear attack or incident; and

poses a high probability of any of the following harms:

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 substantial future harm to a large number of people in the affected population.

"Emergency Care" – The performance of rapid acts or procedures under emergency conditions, especially for those who are stricken with sudden and acute illness or who are the victims of severe trauma, in the observation, care and counsel of persons who are ill or injured or who have disabilities.

"Emergency Care Provider" – A person who provides rapid acts or procedures under emergency conditions, especially for those who are stricken with sudden and acute illness or who are the victims of severe trauma, in the observation, care and counsel of persons who are ill or injured or who have disabilities.

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"Epidemic" – The occurrence in a community or region of cases of a communicable disease (or an outbreak) clearly in excess of expectancy.

"Exclusion" – Removal of individuals from a setting in which the possibility of disease transmission exists. For a food handler, this means to prevent a person from working as an employee in a food establishment or entering a food establishment as an employee.

"Extensively Drug-Resistant Organisms" or "XDRO" – A pathogen that is difficult to treat because it is non-susceptible to all or nearly all antibiotics.

"Fever" – The elevation of body temperature above the normal (typically considered greater than or equal to 100.4 degrees Fahrenheit).

"First Responder" – Individuals who in the early stages of an incident are responsible for the protection and preservation of life, property, evidence, and the environment, including emergency response providers as defined in section 2 of the Homeland Security Act of 2002 (6 USC 101), as well as emergency management, public health, clinical care, public works, and other skilled support personnel (such as equipment operators) that provide immediate support services during prevention, response, and recovery operations.

"Food Handler" – Any person who has the potential to transmit foodborne pathogens to others from working with unpackaged food, food equipment or utensils or food-contact surfaces; any person who has the potential to transmit foodborne pathogens to others by directly preparing or handling food. Any person who dispenses medications by hand, assists in feeding, or provides mouth care shall be considered a food handler for the purpose of this Part. In health care facilities, this includes persons who set up meals for patients to eat, feed or assist patients in eating, give oral medications, or give mouth/denture care. In day care facilities, schools and community residential programs, this includes persons who prepare food, feed or assist attendees in eating, or give oral medications to attendees.

"Health Care" – Care, services and supplies related to the health of an individual. Health care includes preventive, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, among other services. Health care also includes the sale and dispensing of prescription drugs or devices.

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"Health Care Facility" – Any institution, building or agency, or portion of an institution, building or agency, whether public or private (for-profit or nonprofit), that is used, operated or designed to provide health services, medical treatment or nursing, rehabilitative or preventive care to any person or persons. This includes, but is not limited to, ambulatory surgical treatment centers, home health agencies, hospices, hospitals, end-stage renal disease facilities, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, and adult day care centers.

"Health Care Provider" – Any person or entity who provides health care services, including, but not limited to, hospitals, medical clinics and offices, long-term care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, nurse practitioners, nurses, paramedics, emergency medical or laboratory technicians, and ambulance and emergency workers.

"Health Care Worker" – Any person who is employed by (or volunteers his or her services to) a health care facility to provide direct personal services to others. This definition includes, but is not limited to, physicians, dentists, nurses and nursing assistants.

"Health Information Exchange" – The mobilization of healthcare information electronically across organizations within a region, community or hospital system; or, for purposes of this Part, an electronic network whose purpose is to accomplish the exchange, or an organization that oversees and governs the network.

"Health Level Seven" – Health Level Seven International or "HL7" is a not-for-profit, American National Standards Institute (ANSI)-accredited standards developing organization dedicated to providing a comprehensive framework and related standards for the exchange, integration, sharing and retrieval of electronic health information that supports clinical practice and the management, delivery and evaluation of health services. HL7 produces standards for message formats, such as HL7 2.5.1, that are adopted for use in public health data exchange between health care providers and public health.

"Illinois' National Electronic Disease Surveillance System" or "I-NEDSS" – A secure, web-based electronic disease surveillance application utilized by health care providers, laboratories and State and local health department staff to report infectious diseases and conditions, and to collect and analyze additional

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demographic, epidemiological and medical information for surveillance purposes and outbreak detection.

"Immediate Care" – The delivery of ambulatory care in a facility dedicated to the delivery of medical care outside of a hospital emergency department, usually on an unscheduled, walk-in basis. Immediate care facilities are primarily used to treat patients who have an injury or illness that requires immediate care but is not serious enough to warrant a visit to an emergency department.

"Incubation Period" – The time interval between initial contact with an infectious agent and the first appearance of symptoms associated with the infection.

"Infectious Disease" – A disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, prion, or virus. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.

"Institution" – An established organization or foundation, especially one dedicated to education, public service, or culture, or a place for the care of persons who are destitute, disabled, or mentally ill.

"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.~~

"Isolation Precautions" – Infection control measures for preventing the transmission of infectious agents, i.e., standard precautions, airborne precautions (also known as airborne infection isolation precautions), contact precautions, and droplet precautions (see Section 690.20(a)(7)).

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"Least Restrictive" – The minimal limitation of the freedom of movement and communication of a person or group of persons while under an order of isolation or an order of quarantine, which also effectively protects unexposed and susceptible persons from disease transmission.

"Local Health Authority" – The health authority (i.e., full-time official health department, as recognized by the Department) having jurisdiction over a particular area, including city, village, township and county boards of health and health departments and the responsible executive officers of those boards, or any person legally authorized to act for the local health authority. In areas without a health department recognized by the Department, the local health authority shall be the Department.

"Medical Record" – A written or electronic account of a patient's medical history, current illness, diagnosis, details of treatments, chronological progress notes, and discharge recommendations.

"Monitoring" – The practice of watching, checking or documenting medical findings of potential contacts for the development or non-development of an infection or illness. Monitoring may also include the institution of community-level social distancing measures designed to reduce potential exposure and unknowing transmission of infection to others. Community-level social distancing monitoring measures may include, but are not limited to, reporting of geographic location for a period of time, restricted use of public transportation, recommended or mandatory mask use, temperature screening prior to entering public buildings or attending public gatherings.

"Non-Duplicative Isolate" – The first isolate obtained from any source during each unique patient/resident encounter, including those obtained for active surveillance or clinical decision making.

"Observation" – The practice of close medical or other supervision of contacts to promote prompt recognition of infection or illness.

"Observation and Monitoring" – Close medical or other supervision, including, but not limited to, review of current health status, by health care personnel, of a person or group of persons on a voluntary or involuntary basis to permit prompt recognition of infection or illness.

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"Outbreak" – The occurrence of illness in a person or a group of epidemiologically associated persons, with the rate of frequency clearly in excess of normal expectations. The number of cases indicating presence of an outbreak is disease specific.

"Premises" – The physical portion of a building or other structure and its surrounding area designated by the Director of the Department, his or her authorized representative, or the local health authority.

"Public Health Order" – A written or verbal command, directive, instruction or proclamation issued or delivered by the Department or certified local health department.

"Public Transportation" – Any form of transportation that sets fares and is available for public use, such as taxis; multiple-occupancy car, van or shuttle services; airplanes; buses; trains; subways; ferries; and boats.

"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 within Illinois outside of the jurisdiction of the local health authority must be either approved by the Director or be under mutual agreement of the health authority of the jurisdiction and the public health official who will assume responsibility. Travel outside Illinois shall require written notice from the Illinois jurisdiction to the out-of-state jurisdiction that will assume responsibility.~~

"Recombinant Organism" – A microbe with nucleic acid molecules that have been synthesized, amplified or modified.

"REDCap" – Research electronic data capture (REDCap) is a mature, secure web application for building and managing online surveys and databases. It is used by

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state and local health authorities to collect data from persons associated with an outbreak and can be administered directly to exposed persons via a weblink.

"Registry" – A data collection and information system that is designed to support organized care.

"Restrict from Work" – For food handlers, this means to limit the activity of a food handler so that there is no risk of transmitting a disease by making sure that the food handler does not work with food, cleaning equipment, utensils, dishes, linens or unwrapped single service or single use articles or in the preparation of food.

"Sensitive Occupation" – An occupation involving the direct care of others, especially young children and the elderly, or any other occupation designated by the Department or the local health authority, including, but not limited to, health care workers and child care facility personnel.

"Sentinel Surveillance" – A means of monitoring the prevalence or incidence of infectious disease or syndromes through reporting of cases, suspect cases, or carriers or submission of clinical materials by selected sites.

"Specimens" – Include, but are not limited to, blood, sputum, urine, stool, other bodily fluids, wastes, tissues, and cultures necessary to perform required tests.

"Standard Precautions" – Infection prevention and control measures that apply to all patients regardless of diagnosis or presumed infection status (see Section 690.20(a)(7)).

"Sterilization" – The use of a physical or chemical process to destroy all microbial life, including large numbers of highly resistant bacterial endospores.

"Susceptible (non-immune)" – A person who is not known to possess sufficient resistance against a particular pathogenic agent to prevent developing infection or disease if or when exposed to the agent.

"Suspect Case" – A case whose medical history or symptoms suggest that the person may have or may be developing a communicable disease and who does not yet meet the definition of a probable or confirmed case.

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"Syndromic Surveillance" – Surveillance using health-related data that precede diagnosis and signal a sufficient probability of a case, event or outbreak to warrant further public health response.

"Tests" – Include, but are not limited to, any diagnostic or investigative analyses necessary to prevent the spread of disease or protect the public's health, safety and welfare.

"Transmission" – Any mechanism by which an infectious agent is spread from a source or reservoir to a person, including direct, indirect and airborne transmission.

"Treatment" – The provision of health care by one or more health care providers. Treatment includes any consultation, referral or other exchanges of information to manage a patient's care.

"Voluntary Compliance" – Deliberate consented compliance of a person or group of persons that occurs at the request of the Department or local health authority prior to instituting a mandatory order for isolation, quarantine, closure, physical examination, testing, collection of laboratory specimens, observation, monitoring or medical treatment pursuant to this Subpart.

"Zoonotic Disease" – Any disease that is transmitted from animals to people.

(Source: Emergency amendment at 46 Ill. Reg. _____, effective February 14, 2022, for a maximum of 150 days)

SUBPART D: DETAILED PROCEDURES FOR THE CONTROL
OF COMMUNICABLE DISEASES

Section 690.361 Coronavirus, Novel, including Coronavirus Disease 19 (COVID-19), Severe Acute Respiratory Syndrome (SARS), and Middle Eastern Respiratory Syndrome (MERS) (Reportable by telephone immediately (within 3 hours) upon initial clinical suspicion of the disease)

EMERGENCY

- a) Control of Case.
 - 1) All cases, including suspect cases, should be isolated at home or alternative setting for housing in accordance with Subpart I.

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- 2) Standard Precautions, Contact Precautions, Droplet Precautions including eye protection, and Airborne Infection Isolation Precautions shall be followed for cases or suspect cases in a health care facility.
 - 3) When a case or suspected case is isolated in the home or in any other non-hospital setting, isolation procedures shall comply with Section 690.20(a)(4).
 - 4) Cleaning and disinfection procedures shall comply with the guidelines referenced in Section 690.1010(a)(4).
- b) Control of Contacts.
- 1) Contacts of cases shall be placed under surveillance, with close observation for fever and COVID-like respiratory symptoms in consultation with the Department or local health authority on public health management of contacts. Observation and monitoring procedures shall comply with Section 690.20(a)(4).
 - 2) Close contacts of cases may be quarantined. Quarantine procedures shall comply with Subpart I and Section 690.20(a)(4).
- c) Laboratory Reporting.
- 1) Laboratories and other facilities performing lab services that provide tests for screening, diagnosis, or monitoring of coronavirus disease shall report all laboratory results, including positive, negative, and indeterminate results for coronavirus tests, including, but not limited to, all molecular, antigen, and serological tests, including rapid tests, to the Department via the Department's electronic lab reporting (ELR) system in a manner and on a schedule prescribed by the Department. Laboratories unable to submit results to the Department via the Department's ELR shall contact the Department for instructions on how to submit results.
 - 2) Positive results shall be reported to the Department immediately, within 3 hours.
 - 3) In addition to the ELR submission required in subsection 361(c)(1), laboratories shall submit all test results and corresponding data, including,

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but not limited to, the test type, specimen source and patient demographic data, including but not limited to race, ethnicity, sex and address information, to the Department via the Illinois National Electronic Disease Surveillance System (I-NEDSS) within 24 hours after testing until the file is ready for production.

- 4) Laboratories and other facilities performing lab services shall instruct their clients that patient demographic information must be submitted with the order request.
- 5) Laboratories shall only submit results for tests they have performed. Laboratories shall not submit results on referred specimens.
- 6) If deemed necessary by the Department or local health authority, laboratories shall forward clinical specimens to the Department's laboratory for further testing.

d) Schools

1) Definitions

A) For purposes of this Section, "Close Contact" means an individual who was within 6 feet for at least 15 minutes with a Confirmed Case or Probable Case in a 24-hour period. The term Close Contact does not include:

- i) A student who was within 3 to 6 feet in a classroom setting for least 15 minutes with a confirmed or probable student case if both the student and the confirmed or probable student case were consistently masked for the entire exposure period.
- ii) Students and staff aged 18 years and older who have received all CDC recommended COVID-19 vaccine doses, including boosters for any individual who completed the Pfizer-BioNTech primary vaccination series beyond the past five months, the Moderna primary vaccination series beyond the past five months, or Johnson & Johnson Janssen's (J&J) primary vaccination dose beyond the past

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two months (and additional primary doses for some immunocompromised people).

- iii) A student aged 5-17 years who completed the primary series of a COVID-19 vaccine.
 - iv) An individual on school transportation who was within 3 to 6 feet for at least 15 minutes of a confirmed or probable case if both the confirmed or probable case and the exposed individual were consistently and correctly masked during the entire exposure period *and* windows were opened (front, middle, and back, or overhead) to allow for good ventilation or HEPA filters were in use during transit.
 - v) An individual who has tested positive for COVID-19 in the past 90 days from date of exposure.
 - vi) An individual who is solely exposed to a confirmed or probable case while outdoors; however, schools may coordinate with their local health department to determine the necessity of exclusion for higher-risk outdoor exposures.
- B) For purposes of this Section, "Confirmed Case" means a person with a positive molecular amplification detection test result on a COVID-19 diagnostic test (e.g., Polymerase Chain Reaction (PCR) test), irrespective of clinical signs and symptoms.
- C) For purposes of this Section, "Probable Case" means a person with a positive antigen diagnostic test for COVID-19, irrespective of clinical signs and symptoms, or COVID-19 like symptoms who was exposed to a Confirmed or Probable Case.
- D) For purposes of this Section, "Exclude" means a School's obligation to refuse admittance to the School premises, extracurricular events, or any other event organized by the School regardless of whether an isolation or quarantine order issued by a local health department has expired or has not been issued.

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Exclusion from a School shall not be considered isolation or quarantine.

- E) For purposes of this Section, "School" means any public or nonpublic elementary or secondary school, including charter schools, serving students in pre-kindergarten through 12th grade. The term "School" does not include the residential component of any residential schools, including any State-operated residential schools such as the Philip J. Rock Center and School, the Illinois School for the Visually Impaired, the Illinois School for the Deaf, and the Illinois Mathematics and Science Academy. The term "School" does not include schools operated by the Illinois Department of Juvenile Justice.
- F) For purposes of this Section, "School Personnel" means any person who (1) is employed by, volunteers for, or is contracted to provide services for a School or school district serving students in pre-kindergarten through 12th grade, or who is employed by an entity contracted to provide services to a School, school district, or students of a School, and (2) is in close contact (fewer than 6 feet) with students of the School or other School Personnel for more than 15 minutes at least once a week on a regular basis as determined by the School. The term "School Personnel" does not include any person who is present at the School for only a short period of time and whose moments of close physical proximity to others on site are fleeting (e.g., contractors making deliveries to a site where they remain physically distanced from others or briefly enter a site to pick up a shipment).
- G) For purposes of this Section, "Student" means an adolescent or child enrolled in a School.
- 2) Schools shall investigate the occurrence of cases and suspect cases in Schools and identify Close Contacts for purposes of determining whether Students or School Personnel must be Excluded consistent with this Section.
- 3) Schools shall Exclude any Student or School Personnel who is a Confirmed Case or Probable Case, regardless of vaccination status for a minimum of 5 days and a maximum of 10 days following onset date if

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symptomatic or date of specimen collection for a positive test if asymptomatic. Students or School Personnel who are symptomatic can return to School after 5 days only if they are fever free for 24 hours without the use of fever-reducing medication, if diarrhea or vomiting have ceased for 24 hours, and if other symptoms have improved. Such individuals must continue to wear a mask at all times around others, including when outdoors, for an additional 5 days after they return to School.

- 4) Schools shall Exclude any Student or School Personnel who is a Close Contact to a Confirmed or Probable Case for a minimum of 5 days following exposure. Such individuals must continue to wear a mask at all times around others, including when outdoors, for an additional 5 days after they return to School. As an alternative to Exclusion, schools may permit Close Contacts who are asymptomatic and exposed in school during the school day to be on the School premises, provided the Close Contact tests negative at least two times within 7 days after the close contact notification/Test to Stay enrollment, with the last test occurring 5 to 7 days after last close contact.
- 5) Schools shall exclude any Student or School Personnel who exhibit symptoms of COVID-19, as defined by the CDC, until they test negative for COVID-19 or for a minimum of 5 days and a maximum of 10 days. Students or School Personnel who are symptomatic can return to School after 5 days only if they are fever free for 24 hours without the use of fever-reducing medication, diarrhea or vomiting have ceased for 24 hours, and if other symptoms have improved. Such individuals must continue to wear a mask at all times around others, including when outdoors, for an additional 5 days after they return to School.
- 6) Requiring vaccination, testing, or the wearing of masks, or excluding a Student or School Personnel consistent with this subsection shall not constitute isolation or quarantine under the Act, 20 ILCS 2305/1.1 et. seq., and may be done without a court order or order by a local health authority.

(Source: Emergency amendment at 46 Ill. Reg. _____, effective February 14, 2022, for a maximum of 150 days)

SUBPART I: ISOLATION, QUARANTINE, AND CLOSURE

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Section 690.1380 Physical Examination, Testing and Collection of Laboratory Specimens
EMERGENCY

- a) *The Department or certified local health department may order physical examinations and tests and collect laboratory specimens as necessary for the diagnosis or treatment of individuals in order to prevent the probable spread of a dangerously contagious or infectious disease. (Section 2(d) of the Act)*
- b) *Persons who are subject to physical examination, tests and collection of laboratory specimens shall report for physical examinations, tests, and collection of laboratory specimens and comply with other conditions of examinations, tests, and collection as the Department or certified local health department orders.*
- c) *An individual may refuse to consent to a physical examination, test, or collection of laboratory specimens, but shall remain subject to isolation or quarantine, provided that, if those persons are isolated or quarantined, they may request a hearing in accordance with this Subpart. (Section 2(d) of the Act)*
- d) *An individual shall be given a written notice that shall include notice of the following:*
 - 1) *That the individual may refuse to consent to physical examination, test, or collection of laboratory specimens;*
 - 2) *That if the individual consents to physical examination, tests, or collection of laboratory specimens, the results of that examination, test, or collection of laboratory specimens may subject the individual to isolation or quarantine pursuant to the provisions of this Subpart;*
 - 3) *That if the individual refuses to consent to physical examinations, tests, or collection of laboratory specimens and that refusal results in uncertainty regarding whether he or she has been exposed to or is infected with a dangerously contagious or infectious disease or otherwise poses a danger to the public's health, the individual may be subject to isolation or quarantine pursuant to the provisions of this Subpart; and*
 - 4) *That if the individual refuses to consent to physical examinations, tests, or collection of laboratory specimens and becomes subject to isolation and quarantine, he or she shall have the right to counsel pursuant to the provisions of this Subpart. (Section 2(d) of the Act)*

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- e) All specimens collected shall be clearly marked.
- f) Specimen collection, handling, storage, and transport to the testing site shall be performed in a manner that will reasonably preclude specimen contamination or adulteration and provide for the safe collection, storage, handling, and transport of the specimen.
- g) Any person authorized to collect specimens or perform tests shall use chain of custody procedures to ensure proper record keeping, handling, labeling, and identification of specimens to be tested. This requirement applies to all specimens, including specimens collected using on-site testing kits.
- h) Nothing in this Section shall be construed to limit the Department or certified local health department's ability to conduct physical examinations and tests or to collect laboratory specimens on a voluntary basis or from engaging in other methods of voluntary disease surveillance.
- i) Nothing in this Section shall be construed to limit the ability of schools, employers, or other institutions to conduct or require physical examinations and tests or to collect laboratory specimens, or to exclude an individual who does not consent to such examinations, tests, or collection of laboratory specimens consistent with applicable law.

(Source: Emergency amendment at 46 Ill. Reg. _____, effective February 14, 2022, for a maximum of 150 days)

Section 690.1385 Vaccinations, Medications, or Other Treatments

EMERGENCY

- a) *The Department or certified local health department may order the administration of vaccinations, medications, or other treatments to persons as necessary in order to prevent the probable spread of a dangerously contagious or infectious disease. (Section 2(e) of the Act)*
- b) Persons who are required to receive treatment, including, but not limited to, vaccination and medication, shall comply with other conditions of vaccination, medication, or other treatment as the Department or certified local health department orders.

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- c) *An individual may refuse to receive vaccinations, medications, or other treatments, but shall remain subject to isolation or quarantine, provided that, if the individual is isolated or quarantined, he or she may request a hearing in accordance with this Subpart. (Section 2(e) of the Act)*
- d) *An individual shall be given a written notice that shall include notice of the following:*
- 1) *That the individual may refuse to consent to vaccinations, medications, or other treatments;*
 - 2) *That if the individual refuses to receive vaccinations, medications, or other treatments, the individual may be subject to isolation or quarantine pursuant to the provisions of this Subpart; and*
 - 3) *That if the individual refuses to receive vaccinations, medications, or other treatments and becomes subject to isolation and quarantine, he or she shall have the right to counsel pursuant to the provisions of this Subpart. (Section 2(f) of the Act)*
- e) Nothing in this Section shall be construed to limit the Department's or certified local health department's ability to administer vaccinations, medications, or other treatments on a voluntary basis or to prohibit the Department or certified local health department from engaging in other methods of voluntary disease surveillance.
- f) Nothing in this Section shall be construed to limit the ability of schools, employers, or other institutions to require vaccinations or to exclude individuals who do not consent to vaccination consistent with applicable law.

(Source: Emergency amendment at 46 Ill. Reg. _____, effective February 14, 2022, for a maximum of 150 days)

