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DEPARTMENT OF JUSTICE**

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LAW ENFORCEMENT MEMORANDUM

TO: All New Hampshire Law Enforcement Agencies
All County Attorneys

FROM: Gordon J. MacDonald, Attorney General 

DATE: March 27, 2020

RE: **COVID-19: Enforcement of Governor's Emergency Orders and DHHS Isolation or Quarantine Orders**

The public health emergency related to the outbreak of COVID-19 has created unprecedented challenges. The people we serve are, understandably, concerned and anxious. For Law Enforcement, the challenges created by the present situation are also unprecedented. The situation is dynamic and the challenges we face today are likely to multiply in the days ahead. Through it all, it is important to remember the unique and essential role you play in your communities. You stand for protection, comfort, and the fundamental importance of the rule of law. Your presence and leadership will provide reassurance and safety to the people of New Hampshire in the days and weeks ahead.

The purpose of this law enforcement memorandum is to address legal issues raised by Governor Sununu's Declaration of Emergency, his subsequent Emergency Orders, as well as Isolation and Quarantine Orders and Complaints issued by the Commissioner of the Department of Health and Human Services (DHHS).

A. Background

In response to the COVID-19 pandemic, on March 13, 2020, the Governor declared a state of emergency over all of New Hampshire. He has subsequently issued 17 emergency orders. Yesterday, he issued Emergency Order #17: "Closure of non-essential businesses and requiring Granite Staters to stay at home." The Declaration of Emergency and the Emergency Orders are all posted on the State's COVID-19 website, <https://www.nh.gov/covid19/>. A copy of Emergency Order #17 and its attached list of essential services is included with this

memorandum. (Attachment No. 1). It is important to note that the list of essential services is subject to revision. In addition, the DHHS Commissioner has statutory authority to issue “public health orders” necessary to combat the pandemic.

These two types of orders have distinct enforcement mechanisms. **Enforcement of emergency orders from the Governor are governed by the type of discretion that law enforcement officers exercise daily in enforcing any other criminal statute.** By contrast, enforcement of at least some of the DHHS Commissioner’s orders are **mandatory**, meaning that law enforcement who encounter a violation of a DHHS order are **mandated** to take certain action described below. Attached to this memo are two flow charts which illustrate each type of order described in detail below. (Attachment 2). This memo explains the different orders and their enforcement mechanisms. It is important to familiarize yourself with each type of order in order to determine how to enforce it.

B. Emergency Orders Issued by the Governor

1. Authority to Issue

The Governor has the authority to declare a state of emergency and to take action to carry out emergency management functions. RSA 4:45; RSA 4:47. Emergency management means preparing for and carrying out all emergency functions, which include limiting the injury or threat of injury resulting from epidemic. RSA 21-P:35, V. The Governor has declared a state of emergency and issued several emergency orders, all as part of the exercise of his emergency management powers.

2. Authority to Enforce

Emergency Order #17 states that, “[t]he Division of Public Health and State or local police shall have the authority to enforce this Order.” If a person violates an emergency order, rule, or regulation issued by the Governor, the person shall be guilty of a misdemeanor. RSA 21-P:47; Binford, et al v. Governor Sununu, Merrimack County Superior Ct., 217-2020-CV-00152 (Mar. 25, 2020) (Kissinger, J.), at 9–10.

The person may also be in violation of RSA 644:2, the disorderly conduct statute, which prohibits: knowingly or purposely creating a condition hazardous to oneself or another in a public place by any action which serves no legitimate purpose (RSA 644:2, I); knowingly refusing to comply with a lawful order of a peace officer to move from or remain away from a public place (RSA 644:2, II(e)); and disrupting the orderly conduct of business in any public or governmental facility (RSA 644:2, III(b)).¹ Businesses charged and convicted of a misdemeanor face a potential fine of up to \$20,000. RSA 651:2, IV (b).

¹ Because neither RSA 21-P:47 nor RSA 644:2, VI classify the misdemeanor, a misdemeanor charge under either provision is presumed to be a class B misdemeanor unless one of the three conditions set forth in RSA 625:9, IV(c), is satisfied. See RSA 625:9, IV(c)(1)–(3) (eff. Jan. 1, 2020).

The Attorney General's Office can also file in superior court a civil action under RSA 498:1 seeking to prevent or enjoin a violation of an emergency order issued by the Governor.

3. Enforcement

Law enforcement has **discretion** in deciding how to enforce an Emergency Order. That discretion should be exercised with great care. These orders have issued to address a public health emergency and are intended to promote and secure the protection of the health of the people of New Hampshire. **Therefore, the primary enforcement objectives should be to inform the public of the order, its importance to public health, and to seek voluntary compliance.**

In the event of repeated violations, it may be appropriate to issue a verbal or written warning. Such a warning could include information about the risk of harm to the person or others through the spread of the COVID-19 virus. If possible, officers should provide a copy of the relevant Emergency Order to the person or business in violation. **Example:** If a restaurant is open for dine-in customers, the officer should provide the restaurant with a copy of Emergency Order # 17 and, in their discretion, may issue a warning. A warning should inform people and/or businesses that their failure to comply with the Governor's emergency orders or public health orders may lead to criminal charges.

If a law enforcement officer issues a warning to a business, organization, or other entity for a violation of the Governor's order(s), the officer should notify the Attorney General's Office of the warning by calling (603) 931-9975 or (603) 724-0174. The Attorney General's Office will review for potential civil enforcement. If there is a question about whether a business is providing an "essential service" under Emergency Order #17, you should also consult with the Attorney General's Office.

If a business, person, or a group of people fail to comply after being contacted and warned, officers, in their **discretion**, may escalate enforcement to include criminal charges. If the officer is authorized to make an arrest for the misdemeanor offense of violating an emergency order by the Governor, the officer should evaluate whether a formal arrest triggering the bail process is necessary or whether it is appropriate to issue a summons to the person.

If a law enforcement officer issues a summons or makes an arrest relating to a violation of the Governor's order(s) by a business, organization, or other entity, the officer should notify the Attorney General's Office of the interaction after issuing the summons or making the arrest by calling (603) 931-9975 or (603) 724-0174. The Attorney General's Office will review for potential civil enforcement.

C. Public Health Orders Under RSA Chapter 141-C

1. Authority to Issue

The DHHS Commissioner has the authority to issue various types of orders to prevent the spread of communicable diseases under RSA Chapter 141-C, including isolation and quarantine

orders under RSA 141-C:11 and RSA 141-C:12. "Isolation" is the separation of persons who are ill with a contagious (infectious) illness from those who are healthy and the restriction of their movement to stop the spread of that disease. RSA 141-C:2, XII. "Quarantine" is the separation of persons who, while not ill, have been exposed to an infectious agent and therefore may become infectious. RSA 141-C:2, XIII. Orders issued under RSA 141-C:12, I, will state the reason for the quarantine or isolation, the duration and location of quarantine or isolation, and any required treatment.

At this time, very few mandatory isolation and quarantine orders have been issued. It is more likely that a person has been told by DHHS to self-quarantine or has entered into a voluntary quarantine or isolation agreement. These voluntary orders are typically delivered to the person by a DHHS Public Health Nurse. Self-quarantine and voluntary quarantine or isolation agreements are not mandatory because they are not set up using the statutory mechanisms described below.

2. Authority to Enforce

Any person who violates, disobeys, refuses, omits, or neglects to comply with the public health orders issued by the Commissioner pursuant to RSA Chapter 141-C is guilty of a misdemeanor if a natural person and a felony if any other person (such as a business, entity or organization). RSA 141-C:21.

The Attorney General's Office may also file a civil action for injunctive relief to prevent or enjoin violations of RSA Chapter 141-C. RSA 141-C:23. It is important that law enforcement agencies share information regarding violations, particularly repeated violations, to the Attorney General's Office. The Attorney General's Office will review and determine whether a civil enforcement action is necessary.

3. Enforcement

If a law enforcement officer discovers that a person has not self-quarantined or has violated a voluntary quarantine or isolation agreement, the officer should not place the person in custody unless there is an unrelated legal basis to justify an arrest. The officer should inform DHHS of the person's violation by contacting Melissa St. Cyr at (603) 931-0144 or Frank Nachman at (603) 661-7474.

Officials at DHHS will determine whether a mandatory isolation or quarantine order is necessary. Any such order will be issued and enforced as described below.

If a mandatory quarantine or isolation order is issued by the DHHS Commissioner under RSA Chapter 141-C, law enforcement has two potential roles with respect to quarantine or isolation orders.

First, law enforcement may be asked to serve an isolation or quarantine order upon a person. See RSA 141-C:14-a, II. Typically, mandatory orders are delivered by a DHHS Public Health Nurse. In some instances, the DHHS Public Health Nurse or other designated employee may request law enforcement to accompany him or her. However, if the DHHS Public Health

Nurse or other designated employee is unavailable due to staffing limitations, a law enforcement officer may be asked to deliver the order.

A person who is subject to a mandatory isolation or quarantine order has the right to contest the order and request a hearing in superior court. If a law enforcement officer is asked to serve the order, the law enforcement officer should:

- i. Provide the person with oral and written notice of the right to contest the order; and
- ii. Provide the person with the hearing request form.

RSA 141-C:14-a, I.

After serving the mandatory order on the person, the law enforcement officer must complete the certification of service set forth in the order and return it to:

Office of the Commissioner
NH Department of Health & Human Services
129 Pleasant Street
Concord, NH 03301

If the person completes the form requesting a hearing, the law enforcement officer must **immediately** fax or email the form to the superior court of jurisdiction. RSA 141-C:14-a, II. The law enforcement officer should also notify DHHS by calling Melissa St. Cyr at (603) 931-0144 or Frank Nachman at (603) 661-7474. If a hearing is requested, the person shall remain in isolation or quarantine until a court order is issued. RSA 141-C:14-a, IV.

If a mandatory quarantine or isolation order has been issued by the Commissioner, and law enforcement becomes aware that the order has been violated, but the Commissioner has not yet issued a Formal Complaint, law enforcement should not place the person in custody, unless there is an unrelated legal basis to justify an arrest. The law enforcement officer should inform DHHS of the person's violation by contacting Melissa St. Cyr at (603) 931-0144 or Frank Nachman at (603) 661-7474.

If a person subject to a mandatory isolation or quarantine order refuses to cooperate with such order, the DHHS Commissioner may then issue a Formal Complaint pursuant to RSA 141-C:12, III, or RSA 141-C:13, III. The Formal Complaint will state the reason for imposing isolation or quarantine and the place or facility of isolation or quarantine.

Any law enforcement officer that receives a Formal Complaint from the DHHS Commissioner **shall** take the person into custody and transport the person to the place or facility where the person is to be isolated or quarantined as identified in the Formal Complaint. RSA 141-C:12, III; RSA 141-C:13, III. Therefore, law enforcement does not have the discretion whether to enforce the isolation or quarantine order after receiving the Formal Complaint. The law enforcement officer should tell the person that he or she has been ordered to remain at the place of quarantine or isolation and that the law enforcement officer is transporting the person to that location. The person should be transported to the place of quarantine or isolation.

If a person resists the law enforcement officer's efforts, the officer may use the force that is necessary and appropriate to detain the person and transport the person to his or her place of quarantine or isolation. If the person physically resists or refuses to comply, the law enforcement officer should evaluate whether the person should be charged with resisting arrest or detention in violation of RSA 642:2, and/or disorderly conduct in violation of RSA 644:2.

Note: The law enforcement officer must return the person to the place or facility of quarantine or isolation stated on the complaint issued by the DHHS Commissioner. Regardless of whether the person requests to be transported to a different location, law enforcement does not have the authority to change this location.

A sample copy of the isolation or quarantine order (Attachment 3), hearing request form (Attachment 4), and Formal Complaint (Attachment 5) are attached hereto.

D. Alternative Quarantine Facility for First Responders

In enforcing these orders and responding to emergency calls, law enforcement officers should follow applicable protocols to limit exposure. Law enforcement should consult COVID-19 Unprotected Exposure Guidance dated March 21, 2020, or any subsequently published guidance, to assist with the decision of whether an officer needs to be self-monitoring, quarantined, and/or tested for COVID-19. If quarantine becomes necessary, but self-quarantine at home is not an option, alternative quarantine may be available for emergency responders at various locations.

For more information on available quarantine facility accommodations, please contact Emergency Operations Center at (603) 223-3718.

ATTACHMENT 1



**STATE OF NEW HAMPSHIRE
OFFICE OF THE GOVERNOR**

CHRISTOPHER T. SUNUNU
Governor

**STATE OF NEW HAMPSHIRE
BY HIS EXCELLENCY
CHRISTOPHER T. SUNUNU, GOVERNOR**

Emergency Order # 17 Pursuant to Executive Order 2020-04

Closure of non-essential businesses and requiring Granite Staters to stay at home

WHEREAS, on Friday, March 13, 2020, the President of the United States declared a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; and

WHEREAS, on Friday, March 13, 2020, the Governor issued Executive Order 2020-04, An order declaring a state of emergency due to the Novel Coronavirus (COVID-19); and

WHEREAS, on Friday, March 13, 2020, the Governor activated the Emergency Operations Center at the Incident Planning and Operations Center in Concord to assist in the State's response to the COVID-19 outbreak; and

WHEREAS, on Sunday, March 15, 2020, the Governor issued Emergency Order #1, instructing all New Hampshire schools to close and to transition to temporary and remote instruction; and

WHEREAS, on Monday, March 16, 2020, the Governor issued Emergency Order #2, temporarily prohibiting gatherings of 50 or more attendees and prohibiting onsite food and beverage consumption throughout the State; and

WHEREAS, on Monday, March 23, 2020, the first New Hampshire death resulting from COVID-19 occurred; and

WHEREAS, on Monday, March 23, 2020, the Governor issued Emergency Order #16, temporarily prohibiting scheduled gatherings of 10 or more attendees; and

WHEREAS, as of Thursday, March 26, 2020, the CDC reports 54,453 confirmed cases of COVID-19 have occurred in the United States with 737 deaths; and

WHEREAS, experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS, experts indicate that COVID-19 is most commonly spread from an infected symptomatic person to others through respiratory droplets, including:

- Through the air by coughing and sneezing;
- Close personal contact, such as touching or shaking hands;
- Touching an object or surface with the virus on it, then touching your mouth, nose, or eyes before washing your hands.

WHEREAS, the CDC reports that COVID-19 may be spread before an infected person shows symptoms of the virus; and

WHEREAS, as of Thursday, March 26, 2020, the CDC reports 27 U.S. states are reporting some community spread of COVID-19, meaning people have been infected with the virus who may not have the usual risks of international travel or known contact with a confirmed case; and

WHEREAS, in the days since the Governor declared a State of Emergency, the COVID-19 outbreak in New Hampshire has expanded significantly; and

WHEREAS, the number of confirmed cases of COVID-19 continues to rise in the State: as of March 26, 2020, the Department of Health and Human Services, Division of Public Health Services has reported 158 cases of COVID-19, of which 33 are healthcare workers, 1 death, 16 hospitalizations; 650 individuals being monitored; 592 persons with tests pending at the Public Health Lab; and 9 of the 10 counties in the State have been impacted; and

WHEREAS, the Department of Health and Human Services, Division of Public Health has found that community-based transmission of COVID-19 continues to increase in the State and has been identified in the majority of counties; and

WHEREAS, state and local health and emergency response organizations must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS, if COVID-19 spreads in New Hampshire at a rate comparable to the rate of spread in other states and countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of New Hampshire, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS, it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in New Hampshire, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization.

Now therefore, pursuant to Section 18 of Executive Order 2020-04, it is hereby ordered, effective immediately, that:

1. The services identified in EXHIBIT A are hereby designated as “Essential Services.” Additional services may be designated as Essential and added to EXHIBIT A with

written approval of the Commissioner of Business and Economic Affairs and the Governor.

2. All businesses and other organizations that do not provide Essential Services shall close their physical workplaces and facilities to workers, customers, and the public and cease all in person operations as of 11:59 p.m. on March 27, 2020 and shall not re-open to workers, customers or the public or resume in person operations before 12:01 a.m. on May 4, 2020.
3. All businesses or other organizations providing Essential Services shall develop strategies, procedures and practices to allow for social distancing protocols consistent with guidance provided by the CDC and the Division of Public Health.
4. Beginning at 11:59 p.m. on March 27, 2020, New Hampshire citizens shall stay at home or in their place of residence with the following exceptions:
 - a) Leaving home to get fresh air or exercise, provided that social distancing protocols consistent with guidance from the Division of Public Health are observed;
 - b) Leaving home for outdoor recreation provided that appropriate social distancing protocols are observed and provided that such recreation complies with any limitations contained within Executive Order 2020-04 and any Emergency Orders issued pursuant to Executive Order 2020-04;
 - c) Leaving home to run essential errands such as going to the grocery store, pharmacy, laundromat, or fulfilling any other errands an individual determines to be essential for everyday needs;
 - d) Leaving home to visit a spouse, parent, or child;
 - e) Leaving home to provide care for another person;
 - f) Leaving home to go to the gas station;
 - g) Leaving home to order and pick up take-out food;
 - h) Receiving deliveries from Amazon, UPS, Fedex, the U.S. Postal Service, or any other deliveries;
 - i) Leaving home to receive essential medical care or essential medical services;
 - j) Leaving home for purposes of an individual's employment if the individual is employed at a business or organization that provides Essential Services or a business or organization to whom this Order does not apply pursuant to Sections 5-7; and
 - k) Leaving home for purposes of employment in cases where an individual is working remotely for a business that does not provide Essential Services.
5. This Order shall not apply to any K-12 schools within this State.
6. This Order shall not apply to State Government, local and county governments, local and county legislative bodies, the General Court, or the Judicial Branch.

7. This Order shall not apply to any church, synagogue, mosque, or other house of worship, provided that those organizations must still comply with Emergency Order #16.
8. The Division of Public Health and State or local police shall have the authority to enforce this Order.
9. This Order shall remain in effect until May 4, 2020.

Given under my hand and seal at the Executive Chambers in Concord, this 26th day of March, in the year of Our Lord, two thousand and twenty, and the independence of the United States of America, two hundred and forty-four.



GOVERNOR OF NEW HAMPSHIRE

EXHIBIT A to Emergency Order #17

State of New Hampshire – Governor Chris Sununu

Pursuant to Emergency Order #17 issued under Section 18 of Executive Order 2020-04, the State of New Hampshire has compiled a list of industry sectors that provide essential services and support to COVID-19 and the core missions of the State. Entities that fall under this guidance shall continue to operate with necessary staff to complete critical and essential functions. This information is based on federal guidance and amended to reflect the interest of New Hampshire's citizens and economy.

Those deemed essential will continue to have the ability to cross state borders for work related travel (e.g., traveling to and from work/home, transporting products to distribution facilities, etc.).

While the below Sectors are designated as essential, they are urged to follow social distancing protocols for employees in accordance with guidance from the Department of Public Health, including but not limited to:

1. Prohibiting all gatherings with more than 10 individuals
2. Keeping all personnel six feet apart
3. Encouraging employees to stay home when sick, and sending home those who report feeling ill or display symptoms

Businesses and organizations, essential or not, are encouraged to continue their operations through a remote means (ie., telework) that will not require employees, customers, or the public to report to the company or organization's physical facility.

The President of the United States has invoked the Defense Production Act. Under this act, the product line organizations and businesses may change to support the nation's mission in the fight against COVID-19.

The below list of sectors deemed essential and the supporting criteria will be reviewed throughout the length of the COVID-19 pandemic. This document is a living document. This information when reviewed and changed, will be re-disseminated and available on <https://www.nheconomy.com/covid19>.

Law Enforcement, Public Safety, First Responders

- Personnel in emergency management, law enforcement, Emergency Management Systems, fire, and corrections, including front line and management required to maintain operations
- Emergency Medical Technicians
- 911 call center employees, including telecommunicators, dispatchers and managers
- Information and Analysis Center employees
- Hazardous material responders from government and the private sector.
- Workers – including contracted vendors -- who maintain digital systems infrastructure supporting law enforcement and emergency service operations.

Food and Agriculture

- Workers supporting groceries, pharmacies, florists, and other retail, including farmers markets and farm stands, that sells food and beverage products, including liquor stores
- Restaurant carry-out and quick serve food operations, including beer and wine curbside and takeout - Carry-out and delivery food employees
- Food manufacturer employees and their supplier employees—to include those employed in food processing facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities, including breweries, wineries, and distilleries; and the production of food packaging
- Farm workers to include those employed in animal food, feed, and ingredient production, packaging, distribution, and retail; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically
- Farm workers and support service workers to include those who field crops, beekeeping; commodity inspection; fuel ethanol facilities; storage facilities; and other agricultural inputs
- Workers supporting the seafood and fishing industry
- Commercial and residential landscaping services, including golf courses.
- Employees and firms supporting food, feed, and beverage distribution, including warehouse workers, vendor-managed inventory controllers and blockchain managers
- Workers supporting the sanitation of all food manufacturing processes and operations from wholesale to retail
- Company cafeterias - in-plant cafeterias used to feed employees; food service workers in residential schools with students who are unable to leave campus
- Workers in food testing labs in private industries and in institutions of higher education
- Food banks
- Nurseries, greenhouses, garden centers, and agriculture supply stores
- Workers essential for assistance programs and government payments
- Employees of companies engaged in the production of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids

- Animal agriculture workers to include those employed in veterinary health; manufacturing and distribution of animal medical materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, etc.; transportation of live animals, animal medical materials; transportation of deceased animals for disposal; raising of animals for food; animal production operations; slaughter and packing plants and associated regulatory and government workforce
- Organizations and workers responsible for the care and custody of animals, pets and livestock
- Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products
- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary to agricultural production and distribution

Health Care/ Public Health / Human Services

- Workers providing COVID-19 testing; Workers that perform critical clinical research needed for COVID-19 response
- Medical Professionals and caregivers (e.g., physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, speech pathologists and diagnostic and therapeutic technicians and technologists, other providers of mental and behavioral health care, personal care attendants, home health aides and home care workers)
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.)
- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Medical Clinics, Community Mental Health Centers, Methadone/OBOT Clinics, 24 hour Diversionary and Residential Behavioral Health Providers, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Nursing Facilities, Rest Homes, Assisted Living Residences, Organ Pharmacies, Procurement Organizations, Psychiatric Residential, Residential Treatment Schools, Rural Health Clinics and Federally Qualified Health Centers and Community Health Centers, State Hospitals)
- Workers in other 24/7 community resident services serving children and youth, and individuals with developmental, intellectual, physical and/or cognitive disabilities
- Workers in recovery centers and sober homes
- Manufacturers, technicians, logistics and warehouse operators, and distributors of or necessary to the supply chain of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products
- Public health / community health workers, including those who compile, model, analyze and communicate public health information

- Blood and plasma donors and the employees of the organizations that operate and manage related activities
- Workers that manage health plans, billing, and health information, who cannot practically work remotely
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely
- Workers performing cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely
- Workers conducting research critical to COVID-19 response
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely
- Workers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, such as those residing in shelters
- Pharmacy employees necessary for filling prescriptions
- Workers performing mortuary services and workers at funeral homes, crematoriums, and cemeteries
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to mental/behavioral health services to the family members, responders, and survivors of an incident

Energy

Electricity industry:

- Workers who maintain, ensure, or restore the reliable generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers and fleet maintenance technicians
- Workers needed for safe and secure operations at nuclear generation
- Workers at generation, transmission and electric blackstart facilities
- Workers at Reliability Coordinator (RC), Balancing Authorities (BA), and primary and backup Control Centers (CC), including but not limited to independent system operators, regional transmission organizations, and balancing authorities
- Mutual assistance personnel
- IT and OT technology staff – for EMS (Energy Management Systems) and Supervisory Control and Data Acquisition (SCADA) systems, and utility data centers; Cybersecurity engineers; cybersecurity risk management
- Vegetation management crews and traffic workers who support
- Environmental remediation/monitoring technicians
- Instrumentation, protection, and control technicians

Petroleum workers:

- Petroleum product storage, pipeline, marine transport, terminals, rail transport, road transport
- Crude oil storage facilities, pipeline, and marine transport
- Petroleum refinery facilities
- Petroleum security operations center employees and workers who support emergency response services
- Petroleum operations control rooms/centers
- Petroleum drilling, extraction, production, processing, refining, terminal operations, transporting, and retail for use as end-use fuels or feedstocks for chemical manufacturing
- Onshore and offshore operations for maintenance and emergency response
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them

Natural and propane gas workers:

- Natural gas transmission and distribution pipelines, including compressor stations, and road transport
- Underground storage of natural gas
- Natural gas processing plants, and those that deal with natural gas liquids
- Liquefied Natural Gas (LNG) facilities
- Natural gas security operations center, natural gas operations dispatch and control rooms/centers natural gas emergency response and customer emergencies, including natural gas leak calls
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation
- Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls
- Propane gas service maintenance and restoration, including call centers
- Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing
- Propane gas storage, transmission, and distribution centers

Steam workers:

- Workers who support steam distribution companies' provision of district heating and any electric generation
- Workers who support steam distribution companies' dispatch and control rooms and emergency response and customer emergencies, including steam leak calls
- Workers who support steam distribution companies' service maintenance and restoration, including call centers
- Workers who support steam distribution companies' storage, transmission, and distribution centers

Waste and Wastewater

Employees needed to operate and maintain public and private drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities
- Operational staff at community water systems
- Operational staff at wastewater treatment facilities
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring
- Operational staff for water distribution and testing
- Operational staff at wastewater collection facilities
- Operational staff and technical support for SCADA Control systems
- Chemical disinfectant suppliers for wastewater and personnel protection
- Workers that maintain digital systems infrastructure supporting water and wastewater operations

Transportation and Logistics

- Employees supporting or enabling transportation functions, including dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, and workers that maintain and inspect infrastructure (including those that require cross-border travel)
- Employees of firms providing services that enable logistics operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use
- Mass transit workers, including contracted vendors providing transportation and maintenance services to public transit authorities
- Workers critical to operating rental car companies and Transportation Network Companies (TNCs) that facilitate continuity of operations for essential workforces, and other essential travel
- Workers responsible for operating dispatching passenger, commuter and freight trains and public transportation and buses and maintaining rail and transit infrastructure and equipment
- Maritime transportation workers - port workers, mariners, equipment operators
- Truck drivers who haul hazardous and waste materials to support critical infrastructure, capabilities, functions, and services
- Bicycle repair shops
- Automotive sales, repair and maintenance facilities
- Workers who respond to and clear traffic crashes, including contracted vendors and dispatchers
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations
- Postal and shipping workers, to include private companies
- Workers who support moving and storage services
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers

- Air transportation employees, including air traffic controllers, ramp personnel, aviation security, and aviation management and other workers – including contracted vendors – providing services for air passengers
- Workers who support the maintenance and operation of cargo by air transportation, including flight crews, maintenance, airport operations, and other on- and off- airport facilities workers

Public Works

- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees
- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including roads and bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues
- Workers – including contracted vendors – involved in the construction of critical or strategic infrastructure including public works construction, airport operations, water, sewer, gas, electrical, nuclear, oil refining and other critical energy services, roads and highways, public transportation, solid waste collection and removal, municipal transfer stations, and internet, and telecommunications systems (including the provision of essential global, national, and local infrastructure for computing services)
- Workers such as plumbers, electricians, exterminators, inspectors and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, construction sites and projects, and needed facilities
- Support, such as road and line clearing and utility relocation, to ensure the availability of needed facilities, transportation, energy and communications
- Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste
- Licensed site clean-up professionals and other workers addressing hazardous spills, waste sites, and remediation.
- Workers who support the operation, maintenance and public safety of state parks, forests, wildlife management areas, water supply protection lands, and other critical natural resources.
- Workers who support storm clean-up operations (e.g., foresters).

Communications and Information Technology

Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call-centers, wireline and wireless providers, cable service providers, satellite operations, undersea cable landing stations, Internet Exchange Points, and manufacturers and distributors of communications equipment

- Workers who support radio, television, and media service, including, but not limited to front line news reporters, studio, and technicians for newsgathering and reporting
- Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and/or technicians to manage the network or operate facilities
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables
- Installation, maintenance and repair technicians that establish, support or repair service as needed
- Central office personnel to maintain and operate central office, data centers, and other network office facilities
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, and troubleshooting
- Dispatchers involved with service repair and restoration

Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers, data transfer solutions engineers, software and hardware engineers, and database administrators
- Client service centers, field engineers, and other technicians supporting critical infrastructure, as well as manufacturers and supply chain vendors that provide hardware and software, and information technology equipment (to include microelectronics and semiconductors) for critical infrastructure
- Workers responding to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, and other critical infrastructure categories and personnel
- Workers supporting the provision of essential global, national and local infrastructure for computing services (incl. cloud computing services), business infrastructure, web-based services, and critical manufacturing
- Workers supporting communications systems and information technology used by law enforcement, public safety, medical, energy and other critical industries
- Support required for continuity of services, including janitorial/cleaning personnel

Other Community-Based Essential Functions

- Workers to ensure continuity of building functions, including local and state inspectors and administrative support of inspection services who are responsible for the inspection of elevators, escalators, lifts, buildings, plumbing and gas fitting, electrical work, and other safety related professional work

- Security staff to maintain building access control and physical security measures
- Residential and commercial janitorial and cleaning services
- Elections personnel
- Trade Officials (FTA negotiators; international data flow administrators)
- Weather forecasters
- Workers that maintain digital systems infrastructure supporting other critical government operations
- Workers at operations centers necessary to maintain other essential functions
- Workers who support necessary credentialing, vetting and licensing operations for transportation workers including holders of Commercial Drivers Licenses
- Workers who are critical to facilitating trade in support of the national, state and local emergency response supply chain
- Educators and staff supporting public and private emergency childcare programs, including remote learning and facilitating distance learning among residential schools for students with disabilities, K-12 schools, colleges, and universities, provision of school meals, or performing other essential student support functions, if operating under rules for social distancing
- Workers at hotel and commercial lodging facilities
- Construction Workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction)
- Workers that provide services for or determine eligibility for public benefits such as subsidized health care, food and feeding programs, residential and congregate care programs, shelter, in-home supportive services, child welfare, juvenile justice programs, adult protective services and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including family members)
- Professional services (such as legal and accounting services) and payroll and employee benefit services, when necessary to assist in compliance with legally mandated activities and critical sector services or where failure to provide such services during the time of the order would result in significant prejudice
- Commercial retail stores that supply essential sectors, including convenience stores, pet supply stores, auto supplies and repair, hardware and home improvement, and home appliance retailers
- Laundromats, dry cleaning, and laundry services
- Workers and instructors supporting academies and training facilities and courses for the purpose of graduating students and cadets that comprise the essential workforce for all identified critical sectors
- Workers at places of worship

Manufacturing

- Manufacturing companies, distributors, and supply chain companies producing and supplying materials and products for industries that include, but are not limited to, pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, steel and steel products, petroleum and fuel, construction, gun and related products (including

associated retail), operations of dams, water and wastewater treatment, national defense, communications, as well as products used by other essential businesses and operations

Hazardous Materials

- Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing test kits
- Workers who support hazardous materials response and cleanup
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations

Financial Services

- Banks, financial services institutions, credit unions, insurance, payroll, regional development corporations, and accounting services
- Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities)
- Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers)
- Workers who support financial operations, such as those staffing data and security operations centers

Chemical

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, and packaging that prevents the contamination of food, water, medicine, among others essential products
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing

Defense Industrial Base

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals, include but are not limited to, aerospace; mechanical and software engineers, manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers
- Personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities

Special Note

If the function of your business is not listed above, but you believe that it is essential or it is an entity providing essential services or functions, you may request designation as an essential business.

Requests by businesses to be designated an essential function should only be made if they are NOT covered by the guidance.

These requests should be submitted to essential@nheconomy.com and include basic contact information and a brief justification.

ATTACHMENT 2



COVID-19: ENFORCEMENT OF GOVERNOR'S EMERGENCY ORDERS



PRIMARY OBJECTIVES

- Promote public wellness and safety.
- Build community trust by providing accurate information.
- Provide support to those who need it.
- Promote voluntary compliance as much as possible.
- Criminal enforcement is **not** a primary objective.

If Law Enforcement witnesses a violation of the Governor's Emergency Orders, i.e. stay at home order or dining restrictions in restaurants, the officer **MAY**:

1. Inform the person about the risk of harm to self and others through the spread of the COVID-19 virus.
2. Provide a Copy of the Governor's Emergency Order that is being violated, if practicable.
3. Inform the person that he/she may be subjected to criminal penalties and/or civil action for future violations. RSA 21-P:47; RSA 644:2, I; RSA 644:2, II (e).
4. Use discretion to arrest after repeated violations.

**Notify the Attorney General's Office of any repeated violations of the Governor's Emergency Orders:
(603) 931-9975**



COVID-19: ENFORCEMENT OF DHHS ISOLATION & QUARANTINE ORDERS (RSA 141-C)



DHHS issued **VOLUNTARY ORDER** for Isolation or Quarantine

DHHS issued **MANDATORY ORDER** for Isolation or Quarantine

Violation of a DHHS issued **VOLUNTARY ORDER**:

Contact DHHS:

Melissa St. Cyr
(603) 931-0144 or

Frank Nachman
(603) 661-7474

Do Not Arrest or take into custody, unless there is an unrelated basis for an arrest.

- Law Enforcement may be asked to help serve the Order.
- Person is provided a notice of the ability to request a hearing.
- If the individual completes the form requesting a hearing, the law enforcement officer must immediately fax or email the form to the superior court in the county where the person is ordered to quarantine.

Violation of a DHHS issued **MANDATORY ORDER**:

Contact DHHS:

Melissa St. Cyr
(603) 931-0144 or

Frank Nachman
(603) 661-7474

Do Not Arrest or take into custody, unless there is an unrelated basis for an arrest.

DHHS Issued **FORMAL COMPLAINT** (See enclosed form)

Any law enforcement officer that receives such a complaint **shall** take the individual into custody and transport the individual to the place or facility listed in the Complaint. RSA 141-C:12, III

Violation of **FORMAL COMPLAINT**:

Law Enforcement may use their **discretion to**

- Issue a written or verbal warning or
- Enforce the criminal penalties for violating a DHHS Complaint.

Violating an Isolation or Quarantine Complaint is a misdemeanor for a natural person and a felony for any other person (i.e., business or organization) under RSA 141-C:21.

ATTACHMENT 3



Lori A. Shibinette
Commissioner

Lisa M. Morris
Director

STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES
BUREAU OF INFECTIOUS DISEASE CONTROL

29 HAZEN DRIVE, CONCORD, NH 03301
603-271-4496 1-800-852-3345 Ext. 4496
Fax: 603-271-0545 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

ORDER OF ISOLATION

Name

Date: xx/xx/xxxx

Street Address

City/Town, NH, xxxxx

County: _____

Dear x,

The NH Department of Health and Human Services (NH DHHS) is aware that you have been diagnosed with or are suspected to have been exposed to COVID-19. Therefore, you pose a substantial threat to the health of the citizenry. In order to prevent transmission of this disease, NH DHHS orders that you be placed in isolation in accordance with NH RSA 141-C: 11. You will be isolated at _____.

The NH DHHS considers this the least restrictive clinically appropriate place of isolation given its belief that you have or may have been exposed to COVID-19. We understand that isolation may cause significant inconvenience to you. However, it is very important for the protection of your own health and that of others that you abide by this request for isolation.

During the period of isolation, you must stay at the designated location of isolation and avoid close contact with others. You may be required to undergo a medical exam and bodily specimens may be collected for analysis. In the event you are deemed non-contagious by NH DHHS and therefore no longer pose a substantial threat to the health of the public, the Order may be lifted. A Department representative will notify you when this occurs.

If you leave the place of isolation designated above without the prior consent of NH DHHS, action will be taken as authorized under NH RSA 141-C:13, III to have you taken into custody by law enforcement officials and returned to the place of isolation.

If you object to this order of isolation you may request a hearing in the Superior Court in accordance with NH RSA 141-C: 14-a. You may request by a hearing by completing the form attached to this order and returning the form to the person who served this Order, if served in hand. If you were served electronically and wish to request a hearing, you must complete the form and return it electronically to the person who served the Order. DHHS will promptly deliver the form to the Superior Court. The court will then schedule a hearing. The Order remains in effect while the request for a hearing is pending.

We understand that staying home may cause significant inconvenience to you. However, it is important for the protection of your own health and that of others that you abide by this request for Isolation. Any questions regarding this order may be directed to the Bureau of Infectious Disease Control.

Signature of Commissioner or Designee

Date

I hereby certify that this order was served in-hand or delivered electronically (circle one) to the above named individual on the date and time below. I also certify that I have provided both oral and written notice of the right to contest the Order and the form for making the request for a hearing.

_____ at _____ am/pm

Signature of Person Serving Order

SAMPLE

ATTACHMENT 4



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF PUBLIC HEALTH SERVICES
BUREAU OF INFECTIOUS DISEASE CONTROL

Lori A. Shibinette
Commissioner

Lisa M. Morris
Director

29 HAZEN DRIVE, CONCORD, NH 03301
603-271-4496 1-800-852-3345 Ext. 4496
Fax: 603-271-0545 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

_____, SS

SUPERIOR COURT

Name of County

REQUEST FOR SUPERIOR COURT HEARING UNDER RSA 141-C:14-a
TO REVIEW ORDER OF ISOLATION OR QUARANTINE

Name:

Address:

Phone:¹

Email:

NH RSA 141-C: 14-a, I provides that: "Any person subject to an order to submit a specimen under RSA 141-C or for examination, immunization, treatment, isolation, or quarantine, provision of information, inspection of a building or conveyance, or any other order of the commissioner under this chapter may request a hearing in the superior court to contest such order."

I, _____ have been issued an Order of Isolation or Quarantine by the NH Department of Health and Human Services pursuant to NH RSA 141-C: 11 and 12.

I hereby request a hearing in the Superior Court to contest this Order.

I understand that the submission of this completed form to the law enforcement official or other person who served this order on me, including return by electronic means if I accepted service electronically, shall be considered a filing with the superior court in the county in which I live or in which I am to be examined or treated.

I understand that the Order remains in effect and I may be held in isolation or quarantine while the request for hearing is pending.

I understand that if I sign this request and return this form to the person serving the order, they must file it with the court under NH RSA 141-C:14, II. If I do not return it to the person serving me, I understand that I must file it with the superior court and provide notice to the state agencies as provided below.

Signature of Person Requesting Hearing

Date and Time of Signature

¹ Although phone number and email are optional under NH RSA 141-C:14-a, it would be helpful for the Court to have your contact information for scheduling purposes.

I have served a copy of notice of this request for hearing to the NH Commissioner of Health and Human Services or designee, 129 Pleasant St., Brown Building, Concord, NH 03301, (Add and e-mail address, which should be that of the person serving the Order electronically.)

Signature of Person Requesting Hearing

Date and Time of Signature

SAMPLE

ATTACHMENT 5



STATE OF NEW HAMPSHIRE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LEGAL AND REGULATORY SERVICES
BUREAU OF GENERAL COUNSEL

Lori A. Shibinette
Commissioner
Melissa A. St. Cyr, Esq.
Chief Legal Officer

129 PLEASANT STREET, CONCORD, NH 03301-3857
603-271-9226 1-800-852-3345 Ext. 9226
Fax: 603-271-5590 TDD Access: 1-800-735-2964
www.dhhs.nh.gov

COMPLAINT FOR COMPULSORY ISOLATION OR QUARANTINE
PURSUANT TO NH RSA 141-C:12, III

Name of person to be placed in Isolation or Quarantine

Address of person to be placed in Isolation or Quarantine

NH RSA 141-C:12, III provides that "When an individual subject to an order for isolation or quarantine refuses to cooperate with such order, the commissioner may issue a complaint, which shall be sworn to by a justice of the peace. Such complaint shall set forth the reasons for the order imposing isolation and quarantine and the place or facility where the individual shall be isolated or quarantined. Upon being presented with such an order, any law enforcement officer shall take such individual into custody and transport the individual to the place or facility where the individual is to be isolated or quarantined."

The above-named individual requires Isolation or Quarantine for the following reasons:

[Blank lines for reasons]

The place or facility where the person is to be held in Isolation or Quarantine, and the address of that place or facility is:

[Blank lines for address]

Attached is a copy of the Order issued by the NH Department of Health and Human Services. Based upon this information, I hereby order _____ to be taken into custody by law enforcement officers and taken to the facility designated above.

Signature of Commissioner or Designee

Date

Personally appeared the above named _____ and gave oath that the information contained in this Complaint is true and correct to the best of his/her knowledge and belief.

Notary Public/Justice of the Peace
My Commission Expires:

Date