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7. If the Court finds Pritzker did have legislative authority, any part of his order violating Sonja's fundamental rights would result in a glaring lack of due process within the IEMAA.
8. The following legal precedent and statutory framework provides clear resolution to the matter facing the Court.

I. The Executive Branch of Government cannot take possession of private property under Constitutional Powers.

9. Nowhere does Pritzker as the holder of the supreme executive power of the state provide any specific constitutional authority to support his order to close Sonja's business.
10. One only need look to the landmark case of *Youngstown Sheet Tube Co v. Sawyer Sawyer v. Youngstown Sheet Tube Co*, 343 U.S. 579, 72 S.Ct. 863, 96 L.Ed. 1153, 26 A.L.R.2d 1378 (1952) to find no authority lies in the executive branch for such a proposition.
11. This seminale case cuts bare Pritzker's suggestion he wields executive constitutional power to forcibly close private businesses.
12. In the *Youngstown* matter, President Truman, the supreme executive of the United States, issued an executive order to seize possession and to run our nation's steel mills.
13. This order was entered during a national crisis, that being war.
14. Sonja asks this Court to read the holding in this case, and specifically read Justice Douglas' concurrence.
15. In that cause, the mill owners of our nation argued the President's order amounted to lawmaking, a legislative function with the Constitution has expressly confided in Congress. *Youngstown*, 343 U.S. at 582.
16. The mill owners argued the executive order was not authorized by Congress or by any constitutional provision. *Id.* at 583.

17. Due to a strike which was looming between the steel mills and the union workers, the Government further argued the order was necessary and made on the findings of the President that his action was essential to averting a national catastrophe. *Id.*
18. The government additionally argued that in meeting this grave emergency the President was acting within the aggregate of his constitutional powers as the Nation's Chief Executive. *Id.*
19. The government continued to argue a strike disrupting the steel production, even a brief period, would so endanger the well-being and safety of the Nation that the President had "inherent power" to do what he had done and his acts were supported by the Constitution. *Id.* at 584.
20. Our United States Supreme Court made it clear the President's power, if any, to issue this order must stem from an act of Congress or from the Constitution. *Id.* at 585.
21. Given the government acknowledged no express provision of the Constitution acknowledged this power, the government contended the presidential power should be implied from the aggregate powers under the Constitution. *Id.* at 587.
22. The government particularly relied on the constitutional provision which states "the executive power shall be vested in the President" that "he shall Care that the Laws be faithfully executed" *Id.*
23. Justice Black wrote "Even though 'theater of war' be an expanding concept, we cannot with faithfulness to our constitutional system hold the commander in chief has the ultimate power as such to take possession of private property." *Id.*
24. He continues by saying that is a job for our nation's lawmakers. *Id.* (Emphasis Added)
25. Nor can the seizure order be sustained because of the several constitutional provisions that

grant executive power to the President. *Id.*

26. In the framework of our Constitution, the President's power to see that laws are faithfully executed refutes the idea that he is to be lawmaker. *Id.*

27. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. *Id.*

28. And the Constitution is neither silent nor equivocal about who shall make the laws the President is to execute. *Id.*

29. The preamble of the order itself, like that of many statutes, sets out the reasons why the President believes certain policies should be adopted, proclaims these policies as rules of conduct to be followed, and again, like a statute, authorizes a government official to promulgate additional rules and regulations consistent with the policy into execution. *Id.* at 588.

30. The power of Congress to adopt such public policies as to those proclaimed by the order is beyond questions. *Id.*

31. The Constitution did not subject this law-making power of Congress to presidential control. *Id.*

32. In closing, Justice Black proclaimed "The Founders of this Nation entrusted law-making power to the Congress alone in both good and bad times. It would do no good to recall the historical events, the fears of power and the hopes for freedom that lay behind their choice. Such a review would but confirm our holding that his seizure cannot stand." *Id.* at 589.

33. A Court of this state need only replace President Truman during a time of war with Pritzker during this viral pandemic to appreciate the shattering of the separation of powers happening in front of our eyes that our United States Supreme Court unequivocally refuted

during a time of war just 50 years ago.

34. If Justice Black's opinion was not enough, the concurrence of Justice Douglas is even more telling.
35. Justice Douglas stated there can be no doubt the emergency which caused the President to seize these steel plants was one that bore heavily on the country. *Id.* at 629.
36. But the emergency did not create the power, it merely marked an occasion when the power should be exercised. *Id.*
37. And the fact that it was necessary that measures be taken to keep steel in production does not mean that the President, rather than Congress, had the constitutional authority to act. *Id.*
38. The President can act more quickly than Congress. *Id.*
39. All executive power-from the reign of ancient kings to the rule of modern dictators-has the outward appearance of efficiency. *Id.*
40. Legislative power, by contrast, is slower to exercise. *Id.*
41. There must be delay while the ponderous machinery of committees, hearings, and debates is put into motion. *Id.*
42. That takes time, and while the Congress slowly moves into action, the emergency takes its toll on wages, consumer goods, war production, the standard of living of the people, and perhaps even lives. *Id.*
43. Legislative action may indeed be cumbersome, time-consuming, and apparently inefficient. *Id.*
44. Justice Douglas makes it clear when, in relying upon *Myer v. United States*, 272 U.S. 52, he stated "The doctrine of the separation of powers was adopted by the Convention of 1787

not to promote efficiency but to preclude the exercise of arbitrary power. The purpose was not to avoid friction, but by means of the inevitable friction incident to the distribution of government powers among three departments, to save the people from autocracy.” *Id.*

45. Where therefore cannot decide this case by determining which branch of government can deal most expeditiously with the present crisis. The answer must depend on the allocation of powers under the Constitution. *Id.* at 630.

46. As for the matter currently facing our great state, this Honorable Court need look no further than this case of our United States Supreme Court in concluding Pritzker wields no authority to forcibly close Sonja’s business under the constitutional power vested to him as supreme executive of this State. *Id.*

II. The Executive Branch of Government cannot forcibly close a private business owner’s doors under the IEMAA.

47. Given Pritzker can find no refuge in his grant of constitutional powers, he is left to find power to forcibly close Sonja’s business in the delegation of authority granted him by the legislature in the IEMAA.

48. Pritzker cites Section 7(1), 7(2), 7(3), 7(8), 7(9) and 7(12) in support of his position the legislature has specifically delegated him authority forcibly close businesses.

49. Section 7(1) states:

(1) To suspend the provisions of any regulatory statute prescribing procedures for conduct of State business, or the orders, rules and regulations of any State agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder or delay necessary action, including emergency purchases, by the Illinois Emergency Management Agency, in coping with the disaster. (See 20 ILCS 3305/7(1))

50. Section 7(2) states:

(2) To utilize all available resources of the State government as reasonably necessary to cope with the disaster and of each political subdivision of the State. (See 20 ILCS 3305/7(2))

51. Section 7(3) states:

(3) To transfer the direction, personnel or functions of State departments and agencies or units thereof for the purpose of performing or facilitating disaster response and recovery programs. (See 20 ILCS 3305/7(3))

52. Section 7(8) states:

(8) To control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein. (See 20 ILCS 3305/7(8))

53. Section 7(9) states:

(9) To suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles. (See 20 ILCS 3305/7 (9))

54. Section 7(12) states:

(12) Control, restrict, and regulate by rationing, freezing, use of quotas, prohibitions on shipments, price fixing, allocation or other means, the use, sale or distribution of food, feed, fuel, clothing and other commodities, materials, goods, or services; and perform and exercise any other functions, powers, and duties as may be necessary to promote and secure the safety and protection of the civilian population. (See 20 ILCS 3305/7(12))

55. Of these specific enumerated provisions, none expressly provide Pritzker the authority to forcibly close a business without due process.

56. To the extent Pritzker might convince this Court to even consider the proposition some implied interpretation might be considered, the Plaintiff provides this response.

57. Firstly, any grant of authority by the legislature, express or implied, which would impede upon a fundamental liberty interest without any due process of law would be void for violation of United States and Illinois Constitutional principles.
58. Whatever strained interpretation Pritzker might ask this Court to consider of any of these provisions would be asking the Honorable Court to grant relief in their favor, and construing the statute in such a manner that fundamental rights would be infringed upon with no due process ever being afforded to her.
59. In further support of the proposition the legislature never intended to grant the office of governor such extraordinary power is by the fact it has long been the law in this state that the Department of Health alone wields the supreme power over the closure of businesses.
60. This supreme authority over the closure of businesses has been delegated to the Department of Health for at least a century. (See *Barmore v. Robertson*, 302 Ill. 422, 134 N.E. 815 (Ill. 1922))
61. Enclosed are the following documents for the Court to review which conclusively provides support in its determination, that as to the closure of our businesses, nowhere in the great history of our state has this power ever been wielded by the Office of Governor.
62. The attachments include:
- a) Department of Health Act - 20 ILCS 2305 et seq.
 - b) Relevant provisions of the Administrative Code
 - c) Department of Health Order for Closure of a Facility
 - d) Illinois Department of Public Health Enforcement Directive.
 - e) *Barmore v. Robertson*, 302 Ill. 422, 134 N.E. 815 (Ill. 1922)
63. A review of all this documentation will lead the Court to conclude the only delegation of

authority by the people's legislature to forcibly close a business was made to the Department of Health.

64. The Department of Health is free to wield that power and close the Plaintiff's business anytime during this COVID-19 pandemic, so as long as it follows established procedural and substantive due process.

65. The IDPH Director, Dr. Ezike in the April 25, 2020 enforcement directive acknowledges as much in the last paragraph of said directive.

CONCLUSION

66. Pritzker, under color of law, has arbitrarily shuttered the Plaintiff's business, and for that matter, every other business within this state.

67. Pritzker did so without any procedural due process ever being provided.

68. Pritzker had no constitutional authority to do so.

69. Pritzker had no statutory authority to do so.

70. It is clear this extraordinary power lies with our legislature which has granted this extraordinary power and authority to the Department of Health which delegation provides the people express procedural and substantive due process.

71. Even if the Court might be inclined to consider some strained variation of interpretation of any of the sections of the IEMAA, none of those sections are as clear and unequivocal as the IDPHA.

72. Furthermore, the IEMAA is devoid of any due process, and as such if Pritzker asks this Court to construe the law in such a way as it infringes on a fundamental right, the IEMAA provision would be void for violating constitutional principles of due process.

Respectfully submitted,

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EXECUTIVE BRANCH

(20 ILCS 2305/) Department of Public Health Act. (Part 1)

(20 ILCS 2305/1.1) (from Ch. 111 1/2, par. 21.1)

Sec. 1.1. Short title. This Act may be cited as the Department of Public Health Act.
(Source: P.A. 86-1324.)

(20 ILCS 2305/2) (from Ch. 111 1/2, par. 22)

Sec. 2. Powers.

(a) The State Department of Public Health has general supervision of the interests of the health and lives of the people of the State. It has supreme authority in matters of quarantine and isolation, and may declare and enforce quarantine and isolation when none exists, and may modify or relax quarantine and isolation when it has been established. The Department may adopt, promulgate, repeal and amend rules and regulations and make such sanitary investigations and inspections as it may from time to time deem necessary for the preservation and improvement of the public health, consistent with law regulating the following:

(1) Transportation of the remains of deceased persons.

(2) Sanitary practices relating to drinking water made accessible to the public for human consumption or for lavatory or culinary purposes.

(3) Sanitary practices relating to rest room facilities made accessible to the public or to persons handling food served to the public.

(4) Sanitary practices relating to disposal of human wastes in or from all buildings and places where people live, work or assemble.

The provisions of the Illinois Administrative Procedure Act are hereby expressly adopted and shall apply to all administrative rules and procedures of the Department of Public Health under this Act, except that Section 5-35 of the Illinois Administrative Procedure Act relating to procedures for rule-making does not apply to the adoption of any rule required by federal law in connection with which the Department is precluded by law from exercising any discretion.

All local boards of health, health authorities and officers, police officers, sheriffs and all other officers and employees of the state or any locality shall enforce the rules and regulations so adopted and orders issued by the Department pursuant to this Section.

The Department of Public Health shall conduct a public information campaign to inform Hispanic women of the high incidence of breast cancer and the importance of mammograms and where to obtain a mammogram. This requirement may be satisfied by translation into Spanish and distribution of the breast cancer summaries required by Section 2310-345 of the Department of Public Health Powers and Duties Law (20 ILCS 2310/2310-345). The information provided by the Department of Public Health shall include (i) a statement that mammography

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is the most accurate method for making an early detection of breast cancer, however, no diagnostic tool is 100% effective and (ii) instructions for performing breast self-examination and a statement that it is important to perform a breast self-examination monthly.

The Department of Public Health shall investigate the causes of dangerously contagious or infectious diseases, especially when existing in epidemic form, and take means to restrict and suppress the same, and whenever such disease becomes, or threatens to become epidemic, in any locality and the local board of health or local authorities neglect or refuse to enforce efficient measures for its restriction or suppression or to act with sufficient promptness or efficiency, or whenever the local board of health or local authorities neglect or refuse to promptly enforce efficient measures for the restriction or suppression of dangerously contagious or infectious diseases, the Department of Public Health may enforce such measures as it deems necessary to protect the public health, and all necessary expenses so incurred shall be paid by the locality for which services are rendered.

(b) Subject to the provisions of subsection (c), the Department may order a person or group of persons to be quarantined or isolated or may order a place to be closed and made off limits to the public to prevent the probable spread of a dangerously contagious or infectious disease, including non-compliant tuberculosis patients, until such time as the condition can be corrected or the danger to the public health eliminated or reduced in such a manner that no substantial danger to the public's health any longer exists. Orders for isolation of a person or quarantine of a place to prevent the probable spread of a sexually transmissible disease shall be governed by the provisions of Section 7 of the Illinois Sexually Transmissible Disease Control Act and not this Section.

(c) Except as provided in this Section, no person or a group of persons may be ordered to be quarantined or isolated and no place may be ordered to be closed and made off limits to the public except with the consent of the person or owner of the place or upon the prior order of a court of competent jurisdiction. The Department may, however, order a person or a group of persons to be quarantined or isolated or may order a place to be closed and made off limits to the public on an immediate basis without prior consent or court order if, in the reasonable judgment of the Department, immediate action is required to protect the public from a dangerously contagious or infectious disease. In the event of an immediate order issued without prior consent or court order, the Department shall, as soon as practical, within 48 hours after issuing the order, obtain the consent of the person or owner or file a petition requesting a court order authorizing the isolation or quarantine or closure. When exigent circumstances exist that cause the court system to be unavailable or that make it impossible to obtain consent or file a petition within 48 hours after issuance of an immediate order, the Department must obtain consent or file a petition requesting a court order as soon as reasonably possible. To obtain a court order,

the Department, by clear and convincing evidence, must prove that the public's health and welfare are significantly endangered by a person or group of persons that has, that is suspected of having, that has been exposed to, or that is reasonably believed to have been exposed to a dangerously contagious or infectious disease including non-compliant tuberculosis patients or by a place where there is a significant amount of activity likely to spread a dangerously contagious or infectious disease. The Department must also prove that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists. For purposes of this subsection, in determining whether no less restrictive alternative exists, the court shall consider evidence showing that, under the circumstances presented by the case in which an order is sought, quarantine or isolation is the measure provided for in a rule of the Department or in guidelines issued by the Centers for Disease Control and Prevention or the World Health Organization. Persons who are or are about to be ordered to be isolated or quarantined and owners of places that are or are about to be closed and made off limits to the public shall have the right to counsel. If a person or owner is indigent, the court shall appoint counsel for that person or owner. Persons who are ordered to be isolated or quarantined or who are owners of places that are ordered to be closed and made off limits to the public, shall be given a written notice of such order. The written notice shall additionally include the following: (1) notice of the right to counsel; (2) notice that if the person or owner is indigent, the court will appoint counsel for that person or owner; (3) notice of the reason for the order for isolation, quarantine, or closure; (4) notice of whether the order is an immediate order, and if so, the time frame for the Department to seek consent or to file a petition requesting a court order as set out in this subsection; and (5) notice of the anticipated duration of the isolation, quarantine, or closure.

(d) The 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. Physical examinations, tests, or collection of laboratory specimens must not be such as are reasonably likely to lead to serious harm to the affected individual. To prevent the spread of a dangerously contagious or infectious disease, the Department may, pursuant to the provisions of subsection (c) of this Section, isolate or quarantine any person whose refusal of physical examination or testing or collection of laboratory specimens 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. An individual may refuse to consent to a physical examination, test, or collection of laboratory specimens. An individual shall be given a written notice that shall include notice of the following: (i) that the individual may refuse to consent to physical examination, test, or collection of laboratory specimens; (ii) 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 subsection (c) of this Section; (iii) that if the individual refuses to consent to physical examination, 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 subsection (c) of this Section; and (iv) that if the individual refuses to consent to physical examinations, tests, or collection of laboratory specimens and becomes subject to isolation and quarantine as provided in this subsection (d), he or she shall have the right to counsel pursuant to the provisions of subsection (c) of this Section. To the extent feasible without endangering the public's health, the Department shall respect and accommodate the religious beliefs of individuals in implementing this subsection.

(e) The Department may order the administration of vaccines, medications, or other treatments to persons as necessary in order to prevent the probable spread of a dangerously contagious or infectious disease. A vaccine, medication, or other treatment to be administered must not be such as is reasonably likely to lead to serious harm to the affected individual. To prevent the spread of a dangerously contagious or infectious disease, the Department may, pursuant to the provisions of subsection (c) of this Section, isolate or quarantine persons who are unable or unwilling to receive vaccines, medications, or other treatments pursuant to this Section. An individual may refuse to receive vaccines, medications, or other treatments. An individual shall be given a written notice that shall include notice of the following:

(i) that the individual may refuse to consent to vaccines, medications, or other treatments; (ii) that if the individual refuses to receive vaccines, medications, or other treatments, the individual may be subject to isolation or quarantine pursuant to the provisions of subsection (c) of this Section; and (iii) that if the individual refuses to receive vaccines, medications, or other treatments and becomes subject to isolation or quarantine as provided in this subsection (e), he or she shall have the right to counsel pursuant to the provisions of subsection (c) of this Section. To the extent feasible without endangering the public's health, the Department shall respect and accommodate the religious beliefs of individuals in implementing this subsection.

(f) The Department may order observation and monitoring of persons to prevent the probable spread of a dangerously contagious or infectious disease. To prevent the spread of a dangerously contagious or infectious disease, the Department may, pursuant to the provisions of subsection (c) of this Section, isolate or quarantine persons whose refusal to undergo observation and monitoring 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. An individual

may refuse to undergo observation and monitoring. An individual shall be given written notice that shall include notice of the following: (i) that the individual may refuse to undergo observation and monitoring; (ii) that if the individual consents to observation and monitoring, the results of that observation and monitoring may subject the individual to isolation or quarantine pursuant to the provisions of subsection (c) of this Section; (iii) that if the individual refuses to undergo observation and monitoring 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 subsection (c) of this Section; and (iv) that if the individual refuses to undergo observation and monitoring and becomes subject to isolation or quarantine as provided in this subsection (f), he or she shall have the right to counsel pursuant to the provisions of subsection (c) of this Section.

(g) To prevent the spread of a dangerously contagious or infectious disease among humans, the Department may examine, test, disinfect, seize, or destroy animals or other related property believed to be sources of infection. An owner of such animal or other related property shall be given written notice regarding such examination, testing, disinfection, seizure, or destruction. When the Department determines that any animal or related property is infected with or has been exposed to a dangerously contagious or infectious disease, it may agree with the owner upon the value of the animal or of any related property that it may be found necessary to destroy, and in case such an agreement cannot be made, the animals or related property shall be appraised by 3 competent and disinterested appraisers, one to be selected by the Department, one by the claimant, and one by the 2 appraisers thus selected. The appraisers shall subscribe to an oath made in writing to fairly value the animals or related property in accordance with the requirements of this Act. The oath, together with the valuation fixed by the appraisers, shall be filed with the Department and preserved by it. Upon the appraisal being made, the owner or the Department shall immediately destroy the animals by "humane euthanasia" as that term is defined in Section 2.09 of the Humane Care for Animals Act. Dogs and cats, however, shall be euthanized pursuant to the provisions of the Humane Euthanasia in Animal Shelters Act. The owner or the Department shall additionally, dispose of the carcasses, and disinfect, change, or destroy the premises occupied by the animals, in accordance with rules prescribed by the Department governing such destruction and disinfection. Upon his or her failure so to do or to cooperate with the Department, the Department shall cause the animals or related property to be destroyed and disposed of in the same manner, and thereupon the owner shall forfeit all right to receive any compensation for the destruction of the animals or related property. All final administrative decisions of the Department hereunder shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto.

The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(h) To prevent the spread of a dangerously contagious or infectious disease, the Department, local boards of health, and local public health authorities shall have emergency access to medical or health information or records or data upon the condition that the Department, local boards of health, and local public health authorities shall protect the privacy and confidentiality of any medical or health information or records or data obtained pursuant to this Section in accordance with federal and State law. Additionally, any such medical or health information or records or data shall be exempt from inspection and copying under the Freedom of Information Act. Other than a hearing for the purpose of this Act, any information, records, reports, statements, notes, memoranda, or other data in the possession of the Department, local boards of health, or local public health authorities shall not be admissible as evidence, nor discoverable in any action of any kind in any court or before any tribunal, board, agency, or person. The access to or disclosure of any of this information or data by the Department, a local board of health, or a local public authority shall not waive or have any effect upon its non-discoverability or non-admissibility. Any person, facility, institution, or agency that provides emergency access to health information and data under this subsection shall have immunity from any civil or criminal liability, or any other type of liability that might otherwise result by reason of these actions except in the event of willful and wanton misconduct. The privileged quality of communication between any professional person or any facility shall not constitute grounds for failure to provide emergency access. Nothing in this subsection shall prohibit the sharing of information as authorized in Section 2.1 of this Act. The disclosure of any of this information, records, reports, statements, notes, memoranda, or other data obtained in any activity under this Act, except that necessary for the purposes of this Act, is unlawful, and any person convicted of violating this provision is guilty of a Class A misdemeanor.

(i) (A) The Department, in order to prevent and control disease, injury, or disability among citizens of the State of Illinois, may develop and implement, in consultation with local public health authorities, a Statewide system for syndromic data collection through the access to interoperable networks, information exchanges, and databases. The Department may also develop a system for the reporting of comprehensive, integrated data to identify and address unusual occurrences of disease symptoms and other medical complexes affecting the public's health.

(B) The Department may enter into contracts or agreements with individuals, corporations, hospitals, universities, not-for-profit corporations, governmental entities, or other organizations, whereby those individuals or entities agree to provide assistance in the compilation of the syndromic data collection and reporting system.

(C) The Department shall not release any syndromic data or information obtained pursuant to this subsection to any individuals or entities for purposes other than the protection of the public health. All access to data by the Department, reports made to the Department, the identity of or facts that would tend to lead to the identity of the individual who is the subject of the report, and the identity of or facts that would tend to lead to the identity of the author of the report shall be strictly confidential, are not subject to inspection or dissemination, and shall be used only for public health purposes by the Department, local public health authorities, or the Centers for Disease Control and Prevention. Entities or individuals submitting reports or providing access to the Department shall not be held liable for the release of information or confidential data to the Department in accordance with this subsection.

(D) Nothing in this subsection prohibits the sharing of information as authorized in Section 2.1 of this Act.

(j) This Section shall be considered supplemental to the existing authority and powers of the Department and shall not be construed to restrain or restrict the Department in protecting the public health under any other provisions of the law.

(k) Any person who knowingly or maliciously disseminates any false information or report concerning the existence of any dangerously contagious or infectious disease in connection with the Department's power of quarantine, isolation and closure or refuses to comply with a quarantine, isolation or closure order is guilty of a Class A misdemeanor.

(l) The Department of Public Health may establish and maintain a chemical and bacteriologic laboratory for the examination of water and wastes, and for the diagnosis of diphtheria, typhoid fever, tuberculosis, malarial fever and such other diseases as it deems necessary for the protection of the public health.

As used in this Act, "locality" means any governmental agency which exercises power pertaining to public health in an area less than the State.

The terms "sanitary investigations and inspections" and "sanitary practices" as used in this Act shall not include or apply to "Public Water Supplies" or "Sewage Works" as defined in the Environmental Protection Act. The Department may adopt rules that are reasonable and necessary to implement and effectuate this amendatory Act of the 93rd General Assembly.

(m) The public health measures set forth in subsections (a) through (h) of this Section may be used by the Department to respond to chemical, radiological, or nuclear agents or events. The individual provisions of subsections (a) through (h) of this Section apply to any order issued by the Department under this Section. The provisions of subsection (k) apply to chemical, radiological, or nuclear agents or events. Prior to the Department issuing an order for public health measures set forth in this Act for chemical, radiological, or nuclear agents or events as authorized in subsection (m), the Department and the Illinois Emergency Management Agency shall consult in accordance with the

Illinois emergency response framework. When responding to chemical, radiological, or nuclear agents or events, the Department shall determine the health related risks and appropriate public health response measures and provide recommendations for response to the Illinois Emergency Management Agency. Nothing in this Section shall supersede the current National Incident Management System and the Illinois Emergency Operation Plan or response plans and procedures established pursuant to IEMA statutes.
(Source: P.A. 96-698, eff. 8-25-09.)

(20 ILCS 2305/2.1)

Sec. 2.1. Information sharing.

(a) Whenever a State or local law enforcement authority learns of a case of an illness, health condition, or unusual disease or symptom cluster, reportable pursuant to rules adopted by the Department or by a local board of health or local public health authority, or a suspicious event that may be the cause of or related to a public health emergency, as that term is defined in Section 4 of the Illinois Emergency Management Agency Act, it shall immediately notify the Illinois Emergency Management Agency and the Department or local board of health or local public health authority.

(b) Whenever the Department or a local board of health or local public health authority learns of a case of an illness, health condition, or unusual disease or symptom cluster, reportable pursuant to rules adopted by the Department or by a local board of health or a local public health authority, or a suspicious event that it reasonably believes has the potential to be the cause of or related to a public health emergency, as that term is defined in Section 4 of the Illinois Emergency Management Agency Act, it shall immediately notify the Illinois Emergency Management Agency, the appropriate State and local law enforcement authorities, other appropriate State agencies, and federal health and law enforcement authorities and, after that notification, it shall provide law enforcement authorities with such other information as law enforcement authorities may request for the purpose of conducting a criminal investigation or a criminal prosecution of or arising out of that matter. No information containing the identity or tending to reveal the identity of any person may be redisclosed by law enforcement, except in a prosecution of that person for the commission of a crime.

(c) Sharing of information on reportable illnesses, health conditions, unusual disease or symptom clusters, or suspicious events between and among public health and law enforcement authorities shall be restricted to the information necessary for the treatment in response to, control of, investigation of, and prevention of a public health emergency, as that term is defined in Section 4 of the Illinois Emergency Management Agency Act, or for criminal investigation or criminal prosecution of or arising out of that matter.

(d) The operation of the language of this Section is not

dependent upon a declaration of disaster by the Governor pursuant to the Illinois Emergency Management Agency Act. (Source: P.A. 99-78, eff. 7-20-15.)

(20 ILCS 2305/3) (from Ch. 111 1/2, par. 22.01)

Sec. 3. The General Assembly shall from time to time make appropriations to the Department of Public Health for distribution to multiple-county and consolidated health departments. Such appropriations shall be distributed to health departments for municipality contributions to the Illinois Municipal Retirement Fund. Distribution shall be made to those health departments, which have no other funds available for payment of municipality contributions, and have certified the amount needed to each county in the health department and one or more of the counties is at a county tax rate of 75¢ per \$100 of equalized valuation for the year for which the contributions are required. The amount distributed shall be equal to the amount which the county or counties would have been required to contribute to the health department for municipality contributions of the health department if their county tax rate was less than 75¢ per \$100 equalized valuation. (Source: P.A. 76-1511.)

(20 ILCS 2305/4) (from Ch. 111 1/2, par. 22.02)

Sec. 4. No otherwise qualified child with a disability receiving special education and related services under Article 14 of The School Code shall solely by reason of his or her disability be excluded from the participation in or be denied the benefits of or be subjected to discrimination under any program or activity provided by the Department. (Source: P.A. 99-143, eff. 7-27-15.)

(20 ILCS 2305/5) (from Ch. 111 1/2, par. 22.03)

Sec. 5. The Department of Public Health shall implement, administer and enforce the provisions of the "Asbestos Abatement Act". (Source: P.A. 83-1325.)

(20 ILCS 2305/5.5)

Sec. 5.5. Specialized training for dementia-related diseases. The Department, in cooperation with the Department

on Aging or any other appropriate federal, State, or local agency, shall develop specialized training and experience criteria for persons who provide health or home care to victims of Alzheimer's disease or other dementia-related disorders, including but not limited to cognitive and motor skill disorders, stroke and related complications, Huntington's disease, Pick's disease, Parkinson dementia complex, and senility. In addition, the Department shall study the effectiveness of certifying, through the Department or an appropriate private certifying body, persons who provide health or home care to victims of Alzheimer's disease or other dementia-related disorders according to the criteria developed under this Section. The Department shall develop the criteria and present its findings and recommendations to the Governor and the General Assembly on or before March 1, 2001.. (Source: P.A. 91-744, eff. 1-1-01.)

(20 ILCS 2305/6) (from Ch. 111 1/2, par. 22.04)

Sec. 6. The Department of Public Health shall develop and implement a State plan for control of acquired immunodeficiency syndrome (AIDS) to guide the activities of State and local health authorities and all other officers and employees of the State or any locality responsible for the enforcement of public health laws, rules and regulations in the prevention of infectious disease. The Department shall review the provisions of the AIDS control plan with the AIDS Advisory Council prior to adoption and implementation thereof. (Source: P.A. 85-677.)

(20 ILCS 2305/7) (from Ch. 111 1/2, par. 22.05)

Sec. 7. The Illinois Department of Public Health shall adopt rules requiring that upon death of a person who had or is suspected of having an infectious or communicable disease that could be transmitted through contact with the person's body or bodily fluids, the body shall be labeled "Infection Hazard", or with an equivalent term to inform persons having subsequent contact with the body, including any funeral director or embalmer, to take suitable precautions. Such rules shall require that the label shall be prominently displayed on and affixed to the outer wrapping or covering of the body if the body is wrapped or covered in any manner. Responsibility for such labeling shall lie with the attending physician, advanced practice registered nurse, or physician assistant who certifies death, or if the death occurs in a health care facility, with such staff member as may be designated by the administrator of the facility. The Department may adopt rules providing for the safe disposal of human remains. To the extent feasible without endangering the public's health, the Department shall respect and accommodate the religious beliefs

of individuals in implementing this Section.
(Source: P.A. 99-581, eff. 1-1-17; 100-513, eff. 1-1-18.)

(20 ILCS 2305/7.5)

Sec. 7.5. Sarcoidosis research. The Department shall provide grants for research of sarcoidosis from funds appropriated for that purpose.
(Source: P.A. 94-372, eff. 7-29-05.)

(20 ILCS 2305/8) (from Ch. 111 1/2, par. 22.06)

Sec. 8. From funds appropriated to it for this purpose, the Department of Public Health shall annually make grants to regional poison resource centers to provide fast, accurate information for poison prevention, detection, surveillance, and treatment. The Department of Public Health shall develop standards to delineate the responsibilities of poison resource centers receiving funds under this Section.
(Source: P.A. 86-1292.)

(20 ILCS 2305/8.1) (from Ch. 111 1/2, par. 24)

Sec. 8.1. Whoever violates or refuses to obey any rule or regulation of the Department of Public Health shall be deemed guilty of a Class A misdemeanor. The Director of Public Health shall institute prosecutions and proceedings for violation of the rules and regulations adopted by the Department of Public Health, provided that he may designate a local board of health or local health officer to institute prosecutions or proceedings for violation of those rules and regulations adopted by the Department. Each State's Attorney shall prosecute all persons in his county violating or refusing to obey the rules and regulations of the Department of Public Health. All fines or judgments collected or received shall be paid to the County Treasurer of the county in which prosecution is conducted.
(Source: P.A. 87-895; 87-984.)

(20 ILCS 2305/8.2)

Sec. 8.2. Osteoporosis Prevention and Education Program.

(a) The Department of Public Health, utilizing available federal funds, State funds appropriated for that purpose, or other available funding as provided for in this Section, shall establish, promote, and maintain an Osteoporosis Prevention

and Education Program to promote public awareness of the causes of osteoporosis, options for prevention, the value of early detection, and possible treatments (including the benefits and risks of those treatments). The Department may accept, for that purpose, any special grant of money, services, or property from the federal government or any of its agencies or from any foundation, organization, or medical school.

(b) The program shall include the following:

(1) Development of a public education and outreach campaign to promote osteoporosis prevention and education, including, but not limited to, the following subjects:

- (A) The cause and nature of the disease.
- (B) Risk factors.
- (C) The role of hysterectomy.
- (D) Prevention of osteoporosis, including nutrition, diet, and physical exercise.
- (E) Diagnostic procedures and appropriate indications for their use.
- (F) Hormone replacement, including benefits and risks.
- (G) Environmental safety and injury prevention.
- (H) Availability of osteoporosis diagnostic treatment services in the community.

(2) Development of educational materials to be made available for consumers, particularly targeted to high-risk groups, through local health departments, local physicians, advanced practice registered nurses, or physician assistants, other providers (including, but not limited to, health maintenance organizations, hospitals, and clinics), and women's organizations.

(3) Development of professional education programs for health care providers to assist them in understanding research findings and the subjects set forth in paragraph (1).

(4) Development and maintenance of a list of current providers of specialized services for the prevention and treatment of osteoporosis. Dissemination of the list shall be accompanied by a description of diagnostic procedures, appropriate indications for their use, and a cautionary statement about the current status of osteoporosis research, prevention, and treatment. The statement shall also indicate that the Department does not license, certify, or in any other way approve osteoporosis programs or centers in this State.

(c) The State Board of Health shall serve as an advisory board to the Department with specific respect to the prevention and education activities related to osteoporosis described in this Section. The State Board of Health shall assist the Department in implementing this Section.

(Source: P.A. 99-581, eff. 1-1-17; 100-513, eff. 1-1-18.)

(20 ILCS 2305/8.3)

Sec. 8.3. (Repealed).

(Source: P.A. 90-82, eff. 7-10-97. Repealed by P.A. 99-933, eff. 1-27-17.)

(20 ILCS 2305/8.4)

Sec. 8.4. Immunization Advisory Committee. The Director of Public Health shall appoint an Immunization Advisory Committee to advise the Director on immunization issues. The Director shall take into consideration any comments or recommendations made by the Advisory Committee. The Immunization Advisory Committee shall be composed of the following members with knowledge of immunization issues: a pediatrician, a physician licensed to practice medicine in all its branches, a family physician, an infectious disease specialist from a university based center, 2 representatives of a local health department, a registered nurse, a school nurse, a public health provider, a public health officer or administrator, a representative of a children's hospital, 2 representatives of immunization advocacy organizations, a representative from the State Board of Education, a person with expertise in bioterrorism issues, and any other individuals or organization representatives designated by the Director. The Director shall designate one of the Advisory Committee members to serve as the Chairperson of the Advisory Committee.

(Source: P.A. 92-561, eff. 6-24-02.)

Joint Committee on Administrative Rules

ADMINISTRATIVE CODE

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 690 CONTROL OF COMMUNICABLE DISEASES CODE

SECTION 690.1330 ORDER AND PROCEDURE FOR ISOLATION, QUARANTINE AND CLOSURE

Section 690.1330 Order and Procedure for Isolation, Quarantine and Closure

a) *The Department or certified local health department may order a person or group of persons to be quarantined or isolated or may order a place to be closed and made off limits to the public on an immediate basis without prior consent or court order if, in the reasonable judgment of the Department or certified local health department, immediate action is required to protect the public from a dangerously contagious or infectious disease. (Section 2(c) of the Act) The determination that immediate action is required shall be based on the following:*

- 1) The Department or the certified local health department has reason to believe that a person or group of persons is, or is suspected to be, infected with, exposed to, or contaminated with a dangerously contagious or infectious disease that could spread to or contaminate others if remedial action is not taken; and
- 2) The Department or the certified local health department has reason to believe that the person or group of persons would pose a serious and imminent risk to the health and safety of others if not detained for isolation; and
- 3) The Department or the certified local health department has first made efforts, which shall be documented, to obtain voluntary compliance with requests for medical examination, testing, treatment, counseling, vaccination, decontamination of persons or animals, isolation, and inspection and closure of facilities, or has determined that seeking voluntary compliance would create a risk of serious harm.

EXHIBIT

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b) *All police officers, sheriffs and all other officers and employees of the State or any locality shall enforce the rules and regulations so adopted and orders issued by the Department or the certified local health department. (Section 2(a) of the Act) The*

Department or certified local health department may request the assistance of police officers, sheriffs, and all other officers and employees of any political subdivision within the jurisdiction of the Department or certified local health department to immediately enforce an order given to effectuate the purposes of this Subpart.

- c) If the Department or certified local health department orders the immediate isolation or quarantine of a person or group of persons:
- 1) The immediate isolation or quarantine order shall be for a period not to exceed the period of incubation and communicability, as determined by the Department or certified local health department, for the dangerously contagious or infectious disease.
 - 2) The Department or certified local health department shall issue a written isolation or quarantine order within 24 hours after the commencement of isolation or quarantine pursuant to a verbal order, which shall specify the following:
 - A) The identity of all persons or groups subject to quarantine or isolation, if known;
 - B) The premises subject to quarantine, isolation or closure;
 - C) *Notice of the right to counsel;*
 - D) *Notice that if the person or owner is indigent, the court will appoint counsel for that person or owner;*
 - E) *Notice of the reason for the order for isolation, quarantine or closure, including the suspected dangerously contagious or infectious disease, if known;*
 - F) *Notice of whether the order is an immediate order, and if so, the time frame for the Department or certified local health department to seek consent or to file a petition requesting a court order;*
 - G) *Notice of the anticipated duration of the isolation, quarantine, or closure, including the dates and times at which isolation, quarantine, or closure commences and ends (Section 2(c) of the Act);*
 - H) A statement of the measures taken by the Department or the certified local health department to seek voluntary compliance or the basis on which the Department or the certified local health department determined that seeking voluntary compliance would create a risk of serious harm;
 - I) A statement regarding the medical basis on which isolation,

quarantine, or closure is justified, e.g., clinical manifestations; physical examination; laboratory tests, diagnostic tests or other medical tests; epidemiologic information; or other evidence of exposure or infection available to the Department or certified local health department at the time;

- J) A statement that such persons may refuse examination, medical monitoring, medical treatment, prophylaxis, or vaccination, but remain subject to isolation or quarantine; and
- K) A statement that, at any time while the isolation, quarantine or closure order is in effect, persons under isolation, quarantine, or closure may request a hearing to review the isolation, quarantine or closure order as set forth in Section 690.1345 of this Subpart.

d) Verbal Orders.

- 1) The Department or certified local health department may issue a verbal order of isolation, quarantine, or closure without prior notice to the person or group of persons if the delay in imposing a written order of isolation, quarantine, or closure would jeopardize the Department's or certified local health department's ability to prevent or limit:
 - A) The transmission of a dangerously contagious or infectious disease that poses a threat to the public; or
 - B) The transmission of an infectious agent or possibly infectious agent that poses a threat to the public health;
- 2) A verbal order of isolation, quarantine, or closure issued under this Subpart:
 - A) Is valid for 24 hours and shall be followed up with a written order;
 - B) May be verbally communicated by a first responder to the person or group of persons subject to isolation, quarantine, or closure; and
 - C) May be enforced by the first responder until a written order is issued.

- e) *In the event of an immediate order issued without prior consent or court order, the Department or certified local health department shall, as soon as practical, within 48 hours after issuing the order, obtain the consent of the person or owner or file a petition requesting a court order authorizing the isolation, quarantine or closure. When exigent circumstances exist that cause the court system to be unavailable or that make it impossible to obtain consent or file a petition within 48 hours after issuance of an immediate order, the Department or certified local health department must obtain consent or file a petition requesting a court order as soon as reasonably possible. (Section 2(c) of the Act)*

- 1) The petition for a court order authorizing involuntary isolation or quarantine of a person or group of persons or the closure of premises shall specify the following:
 - A) The identity of all persons or groups subject to isolation or quarantine, if known;
 - B) The premises subject to isolation, quarantine or closure;
 - C) The reason for the order for isolation, quarantine or closure, including the suspected dangerously contagious or infectious disease if known;
 - D) The date and time at which isolation, quarantine or closure will commence;
 - E) The anticipated duration of isolation, quarantine, or closure based on the suspected dangerously contagious or infectious disease, if known;
 - F) The measures taken by the Department or the certified local health department to seek voluntary compliance or the basis on which the Department or the certified local health department determined that seeking voluntary compliance would create a risk of serious harm;
 - G) The medical basis on which isolation, quarantine or closure is justified, e.g., clinical manifestations; physical examination; laboratory tests, diagnostic tests or other medical tests; epidemiologic information; or other evidence of exposure or infection available to the Department or certified local health department at the time.
 - 2) The petition shall be accompanied by the declaration of the Department or the certified local health department attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.
- f) Upon filing a petition requesting a court order authorizing the isolation, quarantine or closure, or a petition requesting continued isolation, quarantine, or closure, the Department or certified local health department shall serve a notice of the hearing upon the person or persons who are being quarantined or isolated or upon the owner of the property that is being closed at least 24 hours before the hearing. If it is impractical to provide individual notice to large groups who are isolated or quarantined, a copy of the notice shall be posted in a designated location. The notice shall contain the following information:
- 1) The time, date and place of the hearing;

- 2) The grounds and underlying facts upon which continued isolation, quarantine or closure is sought;
 - 3) The person's right to appear at the hearing; and
 - 4) The person's right to counsel, including the right, if the person is indigent, to be represented by counsel designated by the court.
- g) *To obtain a court order, the Department or certified local health department, by clear and convincing evidence, must prove that the public's health and welfare are significantly endangered by a person or group of persons that has, that is suspected of having, that has been exposed to, or that is reasonably believed to have been exposed to a dangerously contagious or infectious disease, including non-compliant tuberculosis patients or that the public's health and welfare have been significantly endangered by a place where there is a significant amount of activity likely to spread a dangerously contagious or infectious disease. The Department or certified local health department must also prove that all other reasonable means of correcting the problem have been exhausted and no less restrictive alternative exists. For purposes of this subsection, in determining whether no less restrictive alternative exists, the court shall consider evidence showing that, under the circumstances presented by the case in which an order is sought, quarantine or isolation is the measure provided for in a rule of the Department or in guidelines issued by the Centers for Disease Control and Prevention or the World Health Organization. (Section 2(c) of the Act)*
- 1) Isolation, quarantine, or closure authorized as a result of a court order shall be for a period not to exceed 30 days from the date of issuance of the court order.
 - 2) The Department or certified local health department may petition the court to continue the isolation, quarantine, or closure beyond the initial 30 days.
 - 3) The Department or the certified local health department may petition the court to provide interpreters.
 - 4) Prior to the expiration of a court order for continued isolation, quarantine, or closure, the Department or certified local health department may petition the court to continue isolation, quarantine, or closure, provided that:
 - A) The Department or certified local health department provides the court with a reasonable basis to require continued isolation, quarantine, or closure to prevent a serious and imminent threat to the health and safety of others.
 - B) The request for a continued order shall be for a period not to exceed 30 days.

. (Source: Added at 32 Ill. Reg. 3777, effective March 3, 2008)

Case No. _____ Date _____

ORDER FOR CLOSURE OF FACILITY / PLACE

The _____ (name of health department) has determined, based upon the information contained below, that the facility or other place referred to in this order is, or may be, the source of, or contaminated with a dangerously contagious or infectious disease. As a result, it is required that this facility or other place remain closed until it is no longer poses a risk of contagion or infection to others.

Section A: Type of Order

This order for closure is made upon (check all that apply):

☐ Voluntary (Consented) (see Section H)

☐ Immediate (If this is an immediate order then the health department may order closure without consent or a court order if immediate action is required to protect the public from a dangerously contagious or infectious disease. The health department must as soon as practical (within 48 hours after issuing immediate order) obtain consent or request a court order except when court system is unavailable or it is impossible to do so.) 20 ILCS 2305/2(c)

Section B: Information**Place Subject to Closure:**

Name of Place: _____

Address: (Street) _____ (Apt./Rm.#) _____ (City) _____
 (State/Country) _____ (Zip) _____ (Telephone) _____ (Fax) _____
 (Cell/pager) _____ (Email) _____

Owner of Place Subject to Closure:

Name: (Last) _____ (First) _____ (M.I.) _____ Date of Birth: ____-____-____

Current Location of Owner:

Address: (Street) _____ (Apt./Rm.#) _____ (City) _____
 (State/Country) _____ (Zip) _____ (Telephone) _____ (Fax) _____
 (Cell/pager) _____ (Email) _____

Emergency or Other Contact Information of Owner:

Name: (Last) _____ (First) _____ Relationship: _____
 Address: (Street) _____ (Apt./Rm.#) _____ (City) _____
 (State/Country) _____ (Zip) _____ (Telephone) _____ (Fax) _____
 (Cell/pager) _____ (Email) _____

Section C: Department of Public Health Findings

1. A reasonable belief exists that the place identified in this order is or is suspected of being contaminated with the following dangerously contagious or infectious disease: _____
2. Closure is ordered based upon the following findings:
☐ Physical Examination ☐ Medical Evaluation ☐ Laboratory Testing ☐ Environmental Testing
☐ Environmental or Human Exposure ☐ Other Information

Describe the facts in support of closure: _____

3. Duration of Closure: _____

EXHIBIT

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Case No. _____ Date _____

Section D: Terms of Closure

The place subject to this order is required to close and remain closed. No person is permitted access to the premises without prior approval from the local health department. Persons who are permitted access by the local health department must follow all instructions, policies and procedures determined by the local health department.

Section E: Statement of Legal Rights and Duties

1. The _____ (name of health department) has ordered this place to be closed and made off limits to members of the community, and requires that you follow the instructions set forth in Section D above, because it is believed that this place has been contaminated with a dangerously contagious or infectious disease which must be controlled in order to protect others from becoming infected.
2. This closure order will remain in effect only as long as there is a danger of spreading the disease to others.
3. _____ (name of health department) requests that you sign the consent agreement contained in Section H of this order. If you do not consent, then the _____ (name of health department) will seek a court order to require that this place remain closed. If this is an immediate order for closure then the _____ (name of health department) is not required to obtain your consent or file a petition seeking a court order until after issuing the order. The health department must as soon as practical (within 48 hours after issuing immediate order) obtain consent or request a court order except when court system is unavailable or it is impossible to do so. 20 ILCS 2305/2(c)
4. You have the right to counsel. If you are indigent, the court will appoint counsel for you. 20 ILCS 2305/2(c).

Section F: Signature of Authorizing Official

_____, (name of health department)

Address: (Street) _____ (Apt./Rm.#) _____ (City) _____
 (State/Country) _____ (Zip) _____ (Telephone) _____ (Fax) _____
 (Business Phone) _____ (After-hours Phone) _____

Signature _____

Date and Time _____

Title _____

Section G: Enforcement

Any person who knowingly or maliciously disseminates any false information or report concerning the existence of any dangerously contagious or infectious disease in connection with the Department's power of quarantine, isolation and closure or refuses to comply with a quarantine, isolation or closure order is guilty of a Class A misdemeanor. (20 ILCS 2305/2(k).)

Section H: Consent Agreement to Closure (Optional: if individual consents)

I, _____, voluntarily agree to allow the place to be closed as ordered by the _____ (name of health department). I understand that my compliance with this closure order is important to safeguarding the public's health and that if I violate its terms, I will put myself at risk, endanger the community's health, and risk spreading a communicable disease to others. I have received a copy of, and have read or had

Case No. _____ Date _____

explained to me, information on the disease _____. The terms and conditions of the closure order have been explained to me, I have had a chance to ask questions, and they were answered to my satisfaction.

I understand that I must comply with this closure order and that if I wish to withdraw my voluntary consent to this closure order I will notify _____ (name of health department) at (xxx) xxx-xxxx (during normal business hours) or (xxx) xxx-xxxx (after hours). If I withdraw my voluntary consent to this closure order, the _____ (name of health department) will seek a court order to require that the place remain closed. If this is an immediate order for closure then the _____ (name of health department) is not required to obtain my consent or file a petition seeking a court order until after issuing the order. The health department must as soon as practical (within 48 hours after issuing immediate order) obtain consent or request a court order except when court system is unavailable or it is impossible to do so.

I understand that if I violate this order that I may be guilty of committing a Class A misdemeanor as described in Section G of this order.

I understand that if I have any questions regarding this closure order I should contact _____ (name of health department) at (xxx) xxx-xxxx (during normal business hours) or (xxx) xxx-xxxx (after hours).

Signature _____

Date and Time _____

Section I: Legal Authority

This order is issued pursuant to the legal authority contained in the Department of Public Health Act (20 ILCS 2305/2).



ENFORCEMENT

Executive Orders 2020-10 and 2020-18

JB PRITZKER, GOVERNOR

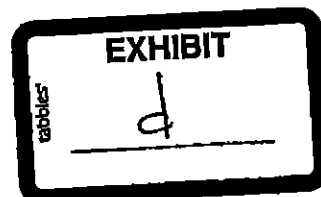
NGOZI O. EZIKE, MD, DIRECTOR

The World Health Organization has declared COVID-19 to be a pandemic. The President of United States has declared the COVID-19 outbreak to be a national emergency. The Governor of Illinois has proclaimed COVID-19 to be a state disaster and declared all counties in the state as a disaster area. Federal, state and local public officials have been required to take extraordinary measures to protect the health, safety and welfare of citizens.

Per Executive Order 2020-10, Section 1, which has been extended through April 30, 2020 by Executive Order 2020-18, Part 1: Beginning March 21, 2020, at 5 p.m., all Illinois citizens are ordered to stay at home or at their place of residence. All persons may leave their homes or place of residence only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses and Operations, as set forth in the Executive Order, and must at all times and as much as reasonably possible maintain social distancing of at least six feet from any other person. Essential activities include activities in furtherance of health and safety; obtaining necessary supplies and services; outdoor activity provided that social distancing is practiced; work related to essential businesses or operations; caring for family, friends, and pets; and obtaining public health or human services.

Per Executive Order 2020-10, Section 2, which has been extended through April 30, 2020 by Executive Order 2020-18, Part 1: Beginning March 21, 2020 at 5 p.m., all businesses and operations in the State, except certain Essential Businesses and Operations that are specifically defined in the Executive Order, are required to cease all activities, unless those activities involve employees working at their own residences. Essential Businesses and Operations include the following: stores that sell groceries and medicines; producers of food, beverages, or cannabis; charitable or social service organizations; media; gas stations and businesses needed for transportation; financial institutions; hardware and supply stores; critical trades; mail, post, shipping, logistics, and delivery and pick-up services; educational institutions (for the purpose of facilitating distance learning or other essential functions); laundry services; restaurants for consumption off premises; supplies to work from home; supplies for essential business and operations; travel; home care; residential care; legal, accounting and insurance services; certain day care locations; manufacture, distribution, and supply chain for critical products and industries; critical labor union functions; hotels and motels; and funeral functions.

Per Executive Order 2020-10, Section 3, which has been extended through April 30, 2020 by Executive Order 2020-18, Part 1: Beginning March 21, 2020 at 5 p.m., all public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for certain limited purposes. This Executive Order includes all places of public amusement, whether indoors or outdoors, including but not limited to, locations with amusement rides, carnivals, amusement parks, water parks,





ENFORCEMENT

Executive Orders 2020-10 and 2020-18

JB PRITZKER, GOVERNOR

NGOZI O. EZIKE, MD, DIRECTOR

aquariums, zoos, museums, arcades, fairs, children's play centers, playgrounds, funplexes, theme parks, bowling alleys, movie and other theaters, concert and music halls, and country clubs or social clubs.

Per Executive Order 2020-10, Section 4, which has been extended through April 30, 2020 by Executive Order 2020-18, Part 1: All travel, except Essential Travel, is prohibited. People riding on public transit for essential business and personal activities must comply with Social Distancing Requirements to the greatest extent feasible.

Please be advised that your establishment is required to adhere to these Executive Orders, and that these steps are necessary and proper to prevent further spreading of COVID-19. This IDPH directive will apply to any subsequent Executive Orders ordering the same and will not terminate until such time the State of Illinois no longer has a proclamation of disaster related to the COVID-19 pandemic.

If you do not adhere to these Executive Orders, the Illinois Department of Public Health and Certified Local Health Departments have the authority, pursuant to the Department of Public Health Act (20 ILCS 2305/1-1.1 *et seq.*), the Civil Administrative Code of Illinois (Department of Public Health Powers and Duties Law) (20 ILCS 2310/1 *et seq.*) and the Control of Communicable Diseases Code (77 Ill. Adm. Code 690), to order that a place be closed and made off limits to the public "to prevent the probable spread of a dangerously contagious or infectious disease . . . until such time as the condition can be corrected or the danger to the public health eliminated or reduced in such a manner that no substantial danger to the public's health any longer exists." 20 ILCS 2305/2(b). The process of issuing such an order is set forth in 20 ILCS 2305/2(c). Furthermore, police officers, sheriffs and all other officers in Illinois are authorized to enforce such orders.

Signed:

A handwritten signature in black ink, appearing to read "Ngozi O. Ezike", is written over a horizontal line.

302 Ill. 422
134 N.E. 815

PEOPLE ex rel. BARMORE

v.

ROBERTSON et al.

No. 14123.

Supreme Court of Illinois.

Feb. 22, 1922.

Rehearing Denied April 13, 1922.

Original proceedings for a writ of habeas corpus by the People, on relation of Jennie Barmore, against Dr. John Dill Robertson and others, to procure release from custody in quarantine.

Relatrix remanded to custody.

Duncan, J., dissenting.

[134 N.E. 816]

[302 Ill. 424] Darrow, Sissman, Popham & Carlin, of Chicago, for relatrix.

Samuel A. Ettelson, Corp. Counsel, of Chicago (Berthold A. Cronson, Carl F. Lund, and John A. Bugee, all of Chicago, of counsel), for respondents.

THOMPSON, J.

Jennie Barmore filed in this court at the June term, 1921, an application for a writ of habeas corpus, stating that she was unlawfully restrained of her liberty at her home in the city of Chicago by John Dill Robertson, commissioner of health, and Herman N. Bundesen, an epidemiologist of the department of health of the city of Chicago. The writ was awarded, and respondents made due return, by which they admit that they are restraining relatrix from going about the city of Chicago and from

following her usual occupation of boardinghouse keeper, for the reason that she is a carrier of typhoid bacilli; that they are restraining her by virtue of the authority given them by the statutes of the state and the ordinances of the city and the rules and regulations of the state department of health, and that her detention was necessary for the preservation of the health of the citizens of the city and the state.

The facts are stipulated by the parties to be substantially as follows: Relatrix is a citizen of Chicago, and is the owner of the house in which she resides. She kept roomers and boarders. Information came to the department of health, by letters and otherwise, that several persons who [302 Ill. 425] had previously roomed and boarded at the house of relatrix had been ill with typhoid fever. Pursuant to this information the department placed relatrix and her house under quarantine, and caused a large placard to be placed in a conspicuous place upon the house. This placard warned all persons that a typhoid carrier resided in the house, and contained the ordinary warnings and instructions found on such placards. Relatrix submitted to the department of health bowel discharges, and an examination of them revealed the presence of large numbers of typhoid bacilli. Several bacteriologists and other medical experts testified that a typhoid carrier is one who has suffered from typhoid fever, and, although having apparently recovered, still carries the typhoid bacilli, or one who has never suffered from the disease of typhoid fever, but who continually or intermittently discharges the typhoid bacilli; that the means of freeing such a person of this disability is not known to medical science, and that a typhoid carrier may discharge typhoid bacilli for a number of years, and then for a period of years the body discharges may be free from bacilli, after which the disability may recur. The uncontradicted evidence of the experts is that typhoid bacilli are present in the bowel and bladder discharges of relatrix, and that typhoid fever

may be communicated to healthy persons if these bacilli enter their bodies. Relatrix testified that she had never been sick with typhoid fever, and that no member of her family and no boarder or roomer in her household had ever been sick with typhoid fever while they lived with her, and that so far as she knew no one had contracted the disease by contact with her. There was no evidence introduced by respondents to contradict her testimony. The quarantine regulations prescribed by the respondents require relatrix to remain in her home and forbid her to prepare food for anyone but her husband, and forbid any one to come into her home, as roomers or otherwise,

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unless they have been immunized from typhoid fever.

[302 Ill. 426]Hemenway on Public Health (section 30) says of human disease carriers:

'It is found that many healthy individuals are a constant source of danger to the community by reason of the fact that they are producing and throwing off disease germs. This is especially true of typhoid fever. After an attack of the fever, perhaps so mild that it was not at the time recognized, many persons continue to develop and discharge the bacilli of the fever, and they are thus causing frequent infections, especially because, owing to their apparent good health, neither the carrier nor his friends are on their guard against the everpresent danger. The legal rights of such individuals, and of the community as against them, may be a matter of some considerable question and perplexity. This must be recognized, however: That a typhoid fever patient is not properly quarantined so long as his infectious discharges are permitted to escape complete sterilization, and a typhoid carrier is entitled to no consideration if he so conducts himself that others receive infection from him. In

other words, it is as necessary for the discharges of a carrier to be sterilized as it is for those of a patient.'

This quotation shows at once the insidious danger of the disease with which we are dealing in this cause, and the difficult and perplexing problems its regulation presents.

The health of the people is unquestionably an economic asset and social blessing, and the science of public health is therefore of great importance. Public health measures have long been recognized and used, but the science of public health is of recent origin, and with the advance of the science methods have been greatly altered. The results to be obtained by scientific health regulations are well illustrated by the remarkable changes made in health conditions in Cuba and Panama. With the increase of population the problem of conserving the health of the people has grown, and public health officers and boards have been appointed [302 Ill. 427]for the purpose of devising and enforcing sanitary measures.

That the preservation of the public health is one of the duties devolving upon the state as a sovereign power will not be questioned. Among all the objects sought to be secured by governmental laws none is more important than the preservation of public health. The duty to preserve the public health finds ample support in the police power, which is inherent in the state, and which the state cannot surrender. Every state has acknowledged power to pass and enforce quarantine, health, and inspection laws to prevent the introduction of disease, pestilence, and unwholesome food, and such laws must be submitted to by individuals for the good of the public. The constitutional guaranties that no person shall be deprived of life, liberty, or property without due process of law, and that no state shall deny to any person within its jurisdiction the equal protection of the laws, were not intended to

limit the subjects upon which the police power of a state may lawfully be asserted in this any more than in any other connection. 12 R. C. L. 1271; Booth v. People, 186 Ill. 43, 57 N. E. 798, 50 L. R. A. 762, 78 Am. St. Rep. 229; State v. Robb, 100 Me. 180, 60 Atl. 874, 4 Ann. Cas. 275; Kirk v. Wyman, 83 S. C. 372, 65 S. E. 387, 23 L. R. A. (N. S.) 1188; Ayres v. State, 178 Ind. 453, 99 N. E. 730, Ann. Cas. 1915C, 549.

Generally speaking, what laws or regulations are necessary to protect public health and secure public comfort is a legislative question, and appropriate measures intended and calculated to accomplish these ends are not subject to judicial review. The exercise of the police power is a matter resting in the discretion of the Legislature or the board or tribunal to which the power is delegated, and the courts will not interfere with the exercise of this power except where the regulations adopted for the protection of the public health are arbitrary, oppressive and unreasonable. The court has nothing to do with the wisdom or expediency of the measures adopted. People v. Weiner, 271 Ill. 74, 110 N. E. 870, L. R. A. 1916C, 775, Ann. Cas. 1917C, 1065; State v. Morse, 84 Vt. 387, 80 Atl. 189, 34 L. R. A. (N. S.) 190, Ann. Cas. 1913B, 218; State v. Superior Court, 103 Wash. 409, 174 Pac. 973.

[302 Ill. 428] The Legislature may, in the exercise of the police power of the state, create ministerial boards, with power to prescribe rules and impose penalties for their violation and provide for the collection of such penalties, and the exercise of this power by the Legislature is not a delegation of legislative power. The Legislature has the authority to exercise its police powers by general law, and to confer upon boards and other agencies authority and discretion to execute these laws. People v. Tait, 261 Ill. 197, 103 N. E. 750; Klafter v. Examiners of Architects, 259 Ill. 15, 102 N. E. 193, 46 L. R. A. (N. S.) 532, Ann. Cas. 1914B, 1221; City of Chicago v. Kluever, 257 Ill. 317, 100 N. E. 917.

In order to secure and promote the public health the state has created a department of public health as an instrumentality or agency for that purpose, and has invested it with the power to adopt by-laws, rules, and regulations necessary to secure the objects of its organization. Similar departments, usually administered by a board of health, have been established in every state in the Union. While it is true that the character or nature of such departments or boards is administrative only, still the powers conferred upon them by the Legislature, in view of the great public interest confided to them, have always received from the courts a liberal construction, and the right of the Legislature to confer upon them the power to make reasonable rules, by-laws, and regulations has long been

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recognized by the authorities. When these departments or boards duly adopt rules or by-laws by virtue of legislative authority, such rules and by-laws have the force and effect of law, and are often said to be in force by authority of the state. Blue v. Beach, 155 Ind. 121, 56 N. E. 89, 50 L. R. A. 64, 80 Am. St. Rep. 195.

Section 55 of the Civil Administrative Code (Hurd's Rev. St. 1919, c. 24 1/2) confers upon the department of public health all the rights, powers, and duties vested by law in the State Board of Health and its officers. Section 2 of the act creating the State Board of Health (Hurd's Rev. St. 1919, c. 111 1/2) gives the department of public health general supervision of the interests of the health and lives of the people of the state, and gives it supreme authority in [302 Ill. 429] matters of quarantine. It is also given authority to make such rules and regulations as it shall from time to time deem necessary for the preservation and improvement of the public health, and makes it the duty of all local health and police officers to enforce these rules and regulations. The act provides a

penalty by a fine not to exceed \$200, or imprisonment in the county jail not to exceed six months, or both, for a violation of any rule or regulation duly adopted by said department. Pursuant to this authority the department of public health has promulgated rules and regulations pertaining to the quarantine of typhoid fever patients and typhoid carriers. These rules and regulations provide that every physician or other person having knowledge of a known or suspected case of typhoid fever shall immediately report the same to the local health authorities, and shall give such information, including probable source of infection, as shall be available. The local health authorities are in turn required to report the case immediately to the state department of public health, and the house where the patient or carrier resides shall be immediately placarded in accordance with the regulations, and instructions shall be given the inmates of the house. Rule 5, which relates to the quarantine, provides:

'The patient shall be confined to one well-ventilated room screened against flies and other insects and as remote as possible from other occupied rooms. The rooms should be stripped of draperies, carpets, upholstery and all furniture and articles not necessary for the comfort of the occupants. Visitors shall not be permitted to enter the sickroom or to come in contact with the attendants. Quarantine shall be raised only by the local health authorities or by the state department of public health.'

The quarantine regulations further provide that other inmates of the infected premises may go about their usual business with certain regulations and restrictions. It is further provided:

'The local health authorities or the state department of public health may require the submission of [302 Ill. 430]specimens of blood or other material from cases of typhoid fever or suspected carriers for the purpose of examination by a state or municipal laboratory.'

Rule 9 specifically governs typhoid carriers, and provides:

'Any person known to be or suspected of being a typhoid carrier, and therefore capable of spreading typhoid infection, shall be treated as a typhoid patient even though to all outward appearances such person may appear to and enforce all necessary police ordinances. governing typhoid fever cases: Provided, however, that in order to meet conditions peculiar to individual cases the state department of public health, upon its own initiative or upon recommendation of the local health authorities, may modify or relax these rules.'

By the Cities and Villages Act the city council in cities is given power 'to regulate the police of the city or village and pass and enforce all necessary police ordinances. * * * To appoint a board of health, and prescribe its powers and duties. * * * To do all acts, make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease, * * * and 'to pass all ordinances, rules, and make all regulations, proper or necessary, to carry into effect the powers granted to cities or villages, with such fines or penalties as the city council * * * shall deem proper: Provided, no fine or penalty shall exceed \$200 and no imprisonment shall exceed six months for one offense.' Pursuant to these powers the city of Chicago has established by ordinance an executive department of the municipal government of the city known as the department of health, which embraces the commissioner of health, the city physician, and other assistants and employees. The commissioner of health, who is required to be a physician, is made the head of the department of health, and is given the management and control of all matters and things pertaining thereto. He is appointed by the mayor, by and with the advice and consent of the city council. The commissioner is given general supervision over the sanitary [302 Ill. 431]condition of the city, and is given authority to appoint and to remove his

assistants and all other officers, inspectors, and employees in the department of health. It is made the duty of the commissioner to enforce all laws of the state and ordinances of the city and all rules and regulations pertaining to the public health, and he is given power to make such rules and regulations in relation to the sanitary condition of the city and for the prevention and suppression of disease as he may deem necessary or advisable, but such rules and regulations are not to be in force until approved by the city council, except in cases of emergency.

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The commissioner and his assistants and employees are given full police powers, and are given authority to enter any building in the city for purposes of inspection, and to quarantine and examine and remove to isolated hospitals afflicted persons, and to arrest any person who violates any of the provisions of the ordinances and any of the rules and regulations of the department. The penalty for such violation is a fine of not less than \$10 and not more than \$200 for each offense. The city of Chicago has no board of health.

[8] Under a general statute giving to the state department of health power to restrict and suppress contagious and infectious diseases, such department has authority to designate such diseases as are contagious and infectious, and the law is not void for this reason on the ground that it delegates legislative power. *Ex parte McGee*, 105 Kan. 574, 185 Pac. 14, 8 A. L. R. 831. The necessity of delegating to an administrative body the power to determine what is a contagious and infectious disease and giving the body authority to take necessary steps to restrict and suppress such disease is apparent to every one who has followed recent events. Legislatures cannot anticipate all the contagious and infectious diseases that may break out in a community, and to limit the

activities of the health authorities to those diseases named by the Legislature in the act creating the administrative body would oftentimes endanger the [302 Ill. 432] health and the lives of the people. There is probably not a Legislature in the country that would have named the deadly Spanish influenza as a contagious and infectious disease prior to the epidemic of that disease that took a greater toll of lives throughout the country than any other epidemic known in this country. In emergencies of this character it is indispensable to the preservation of public health that some administrative body should be clothed with authority to make adequate rules which have the force of law, and to put these rules and regulations into effect promptly. Under these general powers the state department of health has authority to isolate persons who are throwing off disease germs and are thereby endangering the public health. *Kirk v. Wyman*, supra; *State v. Superior Court*, supra; *State v. Raczkowski*, 86 Conn. 677, 86 Atl. 606, 45 L. R. A. (N. S.) 580, Ann. Cas. 1914B, 410; *Crayton v. Larabee*, 220 N. Y. 493, 116 N. E. 355, L. R. A. 1918E, 432; *Brown v. Manning*, 103 Neb. 540, 172 N. W. 522; *In re Johnson*, 40 Cal. App. 242, 180 Pac. 644.

[10] While the powers given to the health authorities are broad and far-reaching they are not without their limitations. As we have said, while the courts will not pass upon the wisdom of the means adopted to restrict and suppress the spread of contagious and infectious diseases, they will interfere if the regulations are arbitrary and unreasonable. *People v. Weiner*, supra; *Bailey v. People*, 190 Ill. 28, 60 N. E. 98, 54 L. R. A. 838, 83 Am. St. Rep. 116; *In re Smith*, 146 N. Y. 68, 40 N. E. 497, 28 L. R. A. 820, 48 Am. St. Rep. 769; *Ex parte Dillon* (Cal. App.) 186 Pac. 170; *Ragg v. Griffin*, 185 Iowa, 243, 170 N. W. 400, 2 A. L. R. 1327.

A person cannot be quarantined upon mere suspicion that he may have a contagious and infectious disease (*Ex parte Shepard* (Cal.

App.) 195 Pac. 1077), but the health authorities must have reliable information on which they have reasonable ground to believe that the public health will be endangered by permitting the person to be at large.

Where danger of an epidemic actually exists, health and quarantine regulations will always be sustained by the courts (*People v. Board of Education*, 234 Ill. 422, 84 N. E. 1046, 17 L. R. A. [N. S.] 709, 14 Ann. Cas. 943; [302 Ill. 433] *Hagler v. Larner*, 284 Ill. 547, 120 N. E. 575; *Globe School District v. Board of Health*, 20 Ariz. 208, 179 Pac. 55); but the health regulations are all sustained on the law of necessity, and when the necessity ceases the right to enforce the regulations ceases. Health authorities cannot promulgate and enforce rules which merely have a tendency to prevent the spread of contagious and infectious diseases, which are not founded upon an existing condition or upon a well-founded belief that a condition is threatened which will endanger the public health. The health authorities cannot interfere with the liberties of a citizen until the emergency actually exists. *Potts v. Breen*, 167 Ill. 67, 47 N. E. 81, 39 L. R. A. 152, 59 Am. St. Rep. 262; *In re Smith*, supra; *Rhea v. Board of Education*, 41 N. D. 449, 171 N. W. 103.

Where one has been arrested and placed under quarantine on the ground that he is afflicted with a contagious disease, he has the right to have the legality of his detention inquired into by habeas corpus. *Ex parte Hardcastle*, 84 Tex. Cr. R. 463, 208 S. W. 531, 2 A. L. R. 1539.

It is not necessary that one be actually sick, as that term is usually applied, in order that the health authorities have the right to restrain his liberties by quarantine regulations. Quarantine is not a cure—it is a preventive. As the term is used in this opinion, quarantine is the method used to confine the disease within the person in whom it is detected, or to prevent a healthy

person from contracting the infection. Disease germs do not usually travel through the air unaided, but they are carried by insects, by dumb animals, and by human beings. Effective quarantine must therefore be not so much the isolation of the person who is sick or affected with the disease as a prevention of the communication of the disease

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germs from the sick to the well. Thus, in the case of typhoid fever, effective quarantine must include very strict restrictions upon the movements of the attendants who in any way come in contact with the sick person or his discharges. It must include the destruction of the bacilli in the discharges of the bowels and the bladder and in the cloths used to wipe the mouth of the patient. [302 Ill. 434] Quarantine, in the very nature of the regulation, is not a definite or uniform measure, but it must vary according to the subject. One of the important elements in the administration of health and quarantine regulations is a full measure of common sense. It is not necessary for the health authorities to wait until the person affected with a contagious disease has actually caused others to become sick by contact with him before he is placed under quarantine. *People v. Tait*, supra; *Kirk v. Wyman*, supra. In the latter case a woman was affected with anaesthetic leprosy, contracted while she was engaged in missionary work in Brazil. It appeared that leprosy in this form was only slightly contagious, and that she had lived for many years in the city of Aiken, S. C., and had mingled freely with the people, and so far as could be ascertained she had not imparted the disease to any other person. The court held, however, that when the distressing nature of the malady was regarded, the board of health was well within the limits of its powers when it required the victim of it to be isolated. The disease was incurable, and the isolation would necessarily continue throughout the remainder of the patient's life.

In the case at bar the State Board of Health, or a board of health in the city of Chicago duly organized pursuant to the authority given the city council by the Legislature, undoubtedly has the right to establish reasonable quarantine regulations with respect to relatrix so long as she is discharging the germs of a contagious and infectious disease. Whether the authority exists to compel a person apparently will to submit to an examination to determine whether he is a germ carrier is not before us, for the reason that relatrix submitted to the examination which revealed that she is such a carrier. The only question presented for determination is whether she is legally and properly detained under quarantine in her home. In order to determine this question we must determine whether an authority authorized [302 Ill. 435] by the Legislature of this state to determine when a person is afflicted with a contagious or infectious disease and to quarantine against the spread of such disease has acted in establishing the quarantine over the home and person of relatrix. The Legislature has granted to cities the power to appoint a board of health and to prescribe its duties and powers. A board of health must necessarily consist of more than one person, and it generally consists of several persons. Many authorities contend that the administration of public health should be vested in an individual and that that individual should be a person trained in the science of public health. This contention is based on the ground that this form of administration of the health laws is productive of efficiency and economy. The same argument might be made in favor of an absolute monarchy, but the experience of the world has been that other forms of government, perhaps more cumbersome and less efficient, insure to the people a more reasonable and less arbitrary administration of the laws. Whatever may be best, the Legislature of Illinois has said that the public health of cities shall be regulated and guarded by a board of health, and until the Legislature grants to cities the power to supervise the

sanitary and health conditions of the city by another instrumentality the cities must content themselves with the power that has been given to them. The city council had no authority to delegate to a health officer the powers and duties which the Legislature said it might delegate to a board of health. The powers given to boards of health are extraordinary, and the Legislature was evidently unwilling to leave to one person the determination of such important and drastic measures as are given to such boards. In the judgment and fidelity of a greater number acting together is the greatest security against the abuse of extraordinary power. In *Taylor v. Adair County*, 119 Ky. 374, 84 S. W. 299, it was held that a county board of health did not have power to delegate its duties to a health officer. In [302 Ill. 436] *Commonwealth v. Yost*, 197 Pa. 171, 46 Atl. 845, it was held that a board of health had no authority to delegate to its secretary power to act in a matter requiring the action of the board. In *Young v. County of Blackhawk*, 66 Iowa, 460, 23 N. W. 923, it was held that a board of health could not delegate its powers to a committee appointed by the board.

The health commissioner of Chicago is purely a ministerial officer, and has no legislative powers whatever. The statute gives to no such individual authority to make rules and regulations which shall have the effect of law. The city has no right to give him authority to determine when a contagious and infectious disease exists and to establish a quarantine. His authority is limited to carrying into execution proper orders of a legally constituted board of health. *People v. Board of Education*, supra.

The department of health of Chicago reported the case of relatrix to the state department of health, and requested that department to authorize a modified quarantine. This authority was granted. While the original quarantine was established without authority

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of a legally constituted board of health, the state department of health has, by authorizing the modified quarantine, in effect established such quarantine on the report of the department of health of the city of Chicago, and respondents are therefore restraining relatrix as agents of the state department. She is bound to respect the rules and regulations promulgated by the state department of health respecting the modified quarantine under which she is placed, and for a violation of these rules she is subject to the penalties provided by the statutes. In order that she may know what the rules and regulations are, it is necessary that she be furnished a copy of them. Relatrix is therefore remanded to the custody of respondents as agents of the state department of health.

Relatrix remanded.

DUNCAN, J., dissenting.