

STATE OF NEW YORK : DEPARTMENT OF HEALTH
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IN THE MATTER

OF

THE PREVENTION AND CONTROL
OF EBOLA VIRUS DISEASE STATEWIDE AND VIA
JOHN F. KENNEDY INTERNATIONAL AIRPORT

ORDER FOR
SUMMARY
ACTION

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WHEREAS, Ebola Virus Disease (EVD) is a rare and potentially deadly disease caused by infection with one of four Ebola virus strains known to cause disease in humans; and

WHEREAS, the virus also can be spread through contact with objects (such as needles, syringes/sharps, or medical equipment) that have been contaminated with the virus; and

WHEREAS, the current EVD event in West Africa has resulted in nearly 9,000 cases and 5,000 deaths in Sierra Leone, Guinea and Liberia and is the largest EVD outbreak in history; and

WHEREAS, EVD in the current event has a high case fatality rate with 58% of known cases resulting in death; and

WHEREAS, the World Health Organization has declared the current EVD outbreak in West Africa to be an international health emergency; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) has issued a travel notice urging all United States (US) residents to avoid nonessential travel to Liberia, Guinea, and Sierra Leone because of the unprecedented outbreaks in those countries; and

WHEREAS, the CDC, in a Morbidity and Mortality Weekly Report (MMWR), dated September 26, 2014, reported that an analysis of Ebola cases in Liberia and Sierra Leone performed to predict the number of future Ebola cases indicates that, if conditions continue

without scale-up of interventions, cases will continue to double approximately every 20 days, and the number of cases in West Africa will rapidly reach extraordinary levels; and

WHEREAS, on September 30, 2014, the CDC confirmed the first travel-associated case of EVD to be diagnosed in the US. The patient passed away on October 8, 2014; and

WHEREAS, on October 12, 2014, the CDC confirmed that a healthcare worker who provided care for the index patient has tested positive for EVD, and on October 15, 2014 confirmed that a second healthcare worker who provided care for the index patient also tested positive for EVD; and

WHEREAS, the epidemic in West Africa could continue for an additional nine months or longer depending on the success of control measures and contact tracing such that there is a continued risk of patients presenting at healthcare facilities in the US with suspected EVD; and

WHEREAS, CDC estimates that 150 travelers return daily to the US from the countries of Sierra Leone, Guinea and Liberia, and 94% of them arrive at one of five international airports;

WHEREAS, of those five airports, one is located in New York State—specifically, John F. Kennedy (JFK) International Airport, located in New York City; and

WHEREAS, on October 17, 2014, a physician returned to New York City, via JFK International Airport, after having provided aid to persons suffering from EVD in Guinea; and

WHEREAS, on October 23, 2014, such physician was diagnosed with EVD and is currently being treated at Bellevue Hospital in New York City; and

WHEREAS, the New York City Department of Health and Mental Hygiene (DOHMH) and its Commissioner, and the presiding officer of each local health unit or local board of health in the State outside of New York City, possess legal authority to, among other things, issue

appropriate orders quarantining persons and places to protect against the spread of a contagious disease such as EVD in their respective jurisdictions; and

WHEREAS, based upon the foregoing, the Acting Commissioner of Health of the State of New York is of the opinion that DOHMH and its Commissioner, and the presiding officer of each local health unit or local board of health in the State outside of New York City, should quarantine persons exposed to EVD who are arriving at JFK International Airport or are elsewhere in the State, pursuant to the standards set forth in Attachment A, and that the failure to do so constitutes a danger to the health, safety and welfare of the people of the State of New York; and

WHEREAS, it therefore appears to be prejudicial to the interest of the people to delay action for fifteen (15) days until an opportunity for a hearing can be provided in accordance with the provisions of Public Health Law Section 12-a.

NOW, THEREFORE, THE ACTING COMMISSIONER OF HEALTH HEREBY ORDERS THAT:

Pursuant to Public Health Law Section 16, DOHMH and its Commissioner, and of the presiding officer of each local health unit or local board of health in the State outside of New York City, shall take such action as set forth in Attachment A.

FURTHER, I DO HEREBY give notice that DOHMH and its Commissioner, and the presiding officer of each local health unit or local board of health in the State outside of New York City, may request a hearing, to be held within fifteen (15) days, at an office of the New York State Department of Health to be determined, to present any proof that failure to implement and comply with the requirements set forth in Attachment A does not constitute a danger to the health of the people of the State of New York. If DOHMH or its Commissioner, the presiding

officer of any local health unit or local board of health in the State outside of New York City, desires such a hearing, a request for a hearing must be made in writing to James E. Dering, General Counsel, New York State Department of Health, Corning Tower, Room 2438, Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12237, within ten (10) days of their receipts of this Order.

DATED: Albany, New York
October 27th, 2014

NEW YORK STATE DEPARTMENT OF
HEALTH

BY: Howard Zucker, M.D.
HOWARD A. ZUCKER, M.D., J.D.
Acting Commissioner of Health

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ATTACHMENT A

I. **Purpose**

This Attachment:

- A. Defines levels of risk for exposure to Ebola Virus Disease (EVD) for asymptomatic persons arriving in New York State (NYS) via John F. Kennedy International Airport (JFK) who either plan to stay in New York City (NYC) or to proceed to another jurisdiction. The New York State Department of Health (NYSDOH) will perform the initial screening at JFK in coordination with the CDC and CBP.
- B. Describes required actions of the New York City Department of Health and Mental Hygiene (DOHMH) and its Commissioner, and of the presiding officer of each local health unit or local board of health in NYS but outside of NYC, for such risk levels.

II. **Definitions**

- A. "Direct contact" shall mean a "higher risk exposure" or "lower risk exposure", as defined herein.
- B. "Higher risk exposure" includes, but is not limited to, the following experienced by a person while in a country where there exists widespread transmission of EVD (including Guinea, Liberia, and Sierra Leone):
 - 1. Physical contact with, or exposure to blood or body fluids of, a person with EVD, or a person with a fever and a second symptom of EVD, or

with a dead body, regardless of Personal Protective Equipment (PPE) used. This includes but is not limited to any person who performed direct medical or nursing care to persons with EVD in such countries;

2. Percutaneous (e.g., needle stick) or mucous membrane exposure to blood or body fluids of a person with EVD, or of a person with a fever and a second symptom of EVD;
 3. Processing blood or body fluids of a person with EVD, or a person with a fever and a second symptom of EVD, without appropriate PPE or standard biosafety precautions; and
 4. Living in the same household as a person with EVD while such person has EVD symptoms.
- C. “Lower risk exposure” includes, but is not limited to, the following experienced by a person while in a country where there exists widespread transmission of EVD (including Guinea, Liberia, and Sierra Leone):
1. Coming within 3 feet of a person with EVD while not wearing appropriate PPE; and
 2. Being in a room or other enclosed location with a person with EVD for a prolonged period of time while not wearing appropriate PPE as determined by the facts and circumstances of that particular case.
- D. “No direct contact”: Arriving from a country where there exists widespread transmission of EVD (including Guinea, Liberia, and Sierra Leone), but with no reported “direct contact”, as defined herein.

III. Required Actions for DOHMH and its Commissioner

- A. DOHMH and its Commissioner are directed to take the following actions regarding any asymptomatic person who has had a direct contact and is arriving at JFK: (i) with no connecting flight; and (ii) whose plans do not include immediately proceeding outside of NYC upon leaving JFK. This includes individuals who reside permanently in NYC, or who plan to remain in NYC for a significant part of a day or more as defined by the DOHMH and its Commissioner in consultation with NYSDOH, and then proceed to another jurisdiction.
1. Issue a quarantine order (QO) for 21 days from the date of the person’s last direct contact, consistent with due process of law. If the person resides permanently in NYC, such person should be quarantined in his or her residence. If such person does not have a permanent residence, other

accommodations shall be made. Transportation from JFK to the person's residence by the NYSDOH.

2. At a minimum, and in coordination with the NYSDOH, actively monitor such person's health status and compliance with the QO by unannounced visits to the quarantine location at least twice daily, for 21 days from the date of the last direct contact (the "quarantine period"), while such person remains in NYC. Monitoring of health status shall include but not be limited to obtaining the person's temperature during each visit.
3. With the approval of NYSDOH, DOHMH and its Commissioner may approve the relocation of such a person to another jurisdiction, subject to: (i) the issuance of a QO for any days remaining in the quarantine period by the local health official of the receiving jurisdiction if in NYS; (ii) an appropriate plan for transport by private conveyance (transportation will be provided by the NYSDOH); and (iii) coordination with state and local health officials in the receiving jurisdiction (collectively referred to as the "NYSDOH approved travel plan").
4. If the receiving jurisdiction is in NYS, the protocol set forth in Section IV, *infra*, will apply.

B. DOHMH and its Commissioner are directed to take the following actions regarding any asymptomatic person who has had a direct contact and is arriving at JFK: (i) with no connecting flight; and (ii) who plans to proceed immediately outside of NYC upon leaving JFK:

1. If during a screening process that includes personnel of NYSDOH or its designee, such person does not voluntarily consent to an arrangement deemed appropriate by NYSDOH to travel to his or her ultimate destination outside of NYC, DOHMH and its Commissioner shall issue a QO for 21 days from the date of the person's last direct contact, consistent with due process of law. Transportation from JFK to the person's residence will be provided by the NYSDOH.
 - a. If the person has access to a residence in NYC that he or she could use, to the extent appropriate preference should be given to quarantining the individual in that location.
 - b. While such person remains in NYC, at a minimum, and in coordination with NYSDOH, actively monitor such person's health status and compliance with the QO by unannounced visits to the quarantine location at least twice daily, for 21 days from the person's date of the last direct contact (the "quarantine period"),

while such person remains in NYC. Monitoring of health status shall include but not be limited to obtaining the person's temperature during each visit.

c. With NYSDOH approval, the DOHMH and its Commissioner may subsequently approve the relocation of such a person to another jurisdiction, subject to: (i) the issuance of a QO for any days remaining in the quarantine period by the local health official of the receiving jurisdiction if in NYS; (ii) an appropriate plan for transport by private conveyance (transportation will be provided by the NYSDOH); and (iii) coordination with state and local health officials in the receiving jurisdiction.

2. If the receiving jurisdiction is in NYS, the protocol set forth in Section IV, *infra*, will apply.

C. DOHMH and its Commissioner are directed to take the following actions regarding any asymptomatic person with no direct contact arriving at JFK: (i) with no connecting flight; and (ii) whose plans do not include immediately proceeding outside of NYC upon leaving JFK:

1. Such persons will be evaluated on a case-by-case basis but will not automatically be subject to a quarantine period.

2. While such person remains in NYC, at a minimum, and in coordination with NYSDOH, monitor such person's health status twice daily, including but not limited to temperature, for 21 days from the person's date of departure from a country where there exists widespread transmission of EVD (including Guinea, Liberia, and Sierra Leone).

3. If the person later decides to proceed to another jurisdiction, notify the local health official in the receiving jurisdiction. If the receiving jurisdiction is in NYS, the protocol set forth in Section IV, *infra*, will apply.

4. If the facts and circumstances of the particular situation warrant, issue a QO, consistent with due process of law.

D. DOHMH and its Commissioner are directed to take the following actions regarding any person who has had no direct contact and is arriving at JFK: (i) with no connecting flight; and (ii) whose plans are to proceed immediately outside of NYC upon leaving JFK:

1. Notify the local health official in the receiving jurisdiction. If the receiving jurisdiction is in NYS, the protocol set forth in Section IV, *infra*, will apply.
 2. If the facts and circumstances of the particular situation warrant, issue a QO, consistent with due process of law.
- E. DOHMH and its Commissioner are directed to take the following actions regarding any person who has had a direct contact, or has had no direct contact, and is arriving at JFK with a connecting flight to a jurisdiction outside of NYS:
1. Notify the local health official in the receiving jurisdiction. The protocol set forth in Section IV, *infra*, will apply.
 2. If the facts and circumstances of the particular situation warrant, issue a QO, consistent with due process of law.
- F. DOHMH and its Commissioner are directed to take the following actions regarding any person who has had a direct contact and is arriving at JFK with a connecting flight to another jurisdiction within NYS:
1. If during a screening process that includes personnel of NYSDOH or its designee, such person does not voluntarily consent to: (i) not taking the connecting flight; and (ii) an arrangement deemed appropriate and provided by NYSDOH to travel to his or her ultimate destination outside of NYC, DOHMH and its Commissioner shall issue a QO for 21 days from the date of the person's last direct contact, consistent with due process of law.
 - a. If the person has access to a residence in NYC that he or she could use, to the extent appropriate preference should be given to quarantining the individual in that location. Transportation from JFK to the person's residence by the NYSDOH.
 - b. While such person remains in NYC, at a minimum, and in coordination with NYSDOH, actively monitor such person's health status and compliance with the QO by unannounced visits to the quarantine location at least twice daily, for 21 days from the person's date of the last direct contact (the "quarantine period"), while such person remains in NYC. Monitoring of health status shall include but not be limited to obtaining the person's temperature during each visit.

- c. With NYSDOH approval, the DOHMH and its Commissioner may subsequently approve the relocation of such a person to another jurisdiction, subject to: (i) the issuance of a QO for any days remaining in the quarantine period by the local health official of the receiving jurisdiction if in NYS; (ii) an appropriate plan for transport by private conveyance (transportation will be provided by the NYSDOH); and (iii) coordination with state and local health officials in the receiving jurisdiction.
 - 2. For the receiving jurisdiction in NYS, the protocol set forth in Section IV, *infra*, will apply.
- G. DOHMH and its Commissioner are directed to take the following actions regarding any person who has had no direct contact and is arriving at JFK with a connecting flight to another jurisdiction within NYS:
 - 1. Notify the local health official in the receiving jurisdiction. For the receiving jurisdiction, the protocol set forth in Section IV, *infra*, will apply.
 - 2. If the facts and circumstances of the particular situation warrant, issue a QO, consistent with due process of law.

IV. **Required Actions for the Presiding Officer of Each Local Health Unit or Local Board of Health in NYS Outside of NYC**

- A. The presiding officer of each local health unit or local board of health in NYS but outside of NYC (Presiding Officer) are directed to take the following actions regarding any person who has had a direct contact:
 - 1. Issue a QO for 21 days from the date of the person's last direct contact, consistent with due process of law. If the person resides within the Presiding Officer's jurisdiction, to the extent appropriate, preference should be given to quarantining the individual in his or her residence. Transportation from JFK to the person's residence by the NYSDOH.
 - 2. At a minimum, and in coordination with NYSDOH, actively monitor such person's health status and compliance with the QO by unannounced visits to the location where the person is quarantined at least twice daily, for 21 days from the date of the person's last direct contact (the "quarantine period"), while such person remains in the jurisdiction. Monitoring of health status shall include but not be limited to obtaining the person's temperature during each visit.

3. With NYSDOH approval, the Presiding Officer may approve the relocation of such a person to another jurisdiction, subject to: (i) the issuance of a QO for any days remaining in the quarantine period if the person remains in NYS; (ii) an appropriate plan for transport by private conveyance (transportation will be provided by the NYSDOH); and (iii) coordination with state and local health officials in the receiving jurisdiction (NYSDOH approved travel plan).
 4. Not refuse to accept any person traveling to the Presiding Officer's jurisdiction pursuant to any travel plan approved by NYSDOH.
- B. Each Presiding Officer is directed to take the following actions regarding any person with no direct contact:
1. Such persons will be evaluated on a case-by-case basis but will not automatically be subject to a quarantine period.
 2. At a minimum, and in coordination with NYSDOH, monitor such person's health status twice daily, including but not limited to temperature, for 21 days from the date of departure from a country where there exists widespread transmission of EVD (including Guinea, Liberia, and Sierra Leone), while such person remains in the Presiding Officer's jurisdiction.
 3. If the facts and circumstances of the particular situation warrant, issue a QO, consistent with due process of law.
 4. Not refuse to accept any person traveling to the Presiding Officer's jurisdiction pursuant to any travel plan approved by NYSDOH.

V. **Required Actions for DOHMH, its Commissioner and the Presiding Officer of Each Local Health Unit or Local Board of Health in NYS Outside of NYC**

- A. DOHMH, its Commissioner and the Presiding Officer of Each Local Health Unit or Local Board of Health in NYS Outside of NYC (collectively, "Health Officers") are directed to take the following actions:
1. Notify NYSDOH of any judicial or other challenge to any QO issued within their respective jurisdiction. The Health Officer shall provide such notice to NYSDOH both verbally by telephone and in writing by facsimile as soon as possible on the day the Health Officer receives service, notice or otherwise learns of the challenge. Such notice shall be provided to NYSDOH as follows: (i) by telephone to James E. Dering, General Counsel, at (518) 474-7553; and (ii) by facsimile addressed to James E. Dering, General Counsel, at (518) 473-2802.