

# The Model State Emergency Health Powers Act

## A Checklist of Issues

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The National Conference of State Legislatures is the bipartisan organization that serves the legislators and staffs of the states, commonwealths and territories.

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# PREFACE AND ACKNOWLEDGMENTS

The *Model State Emergency Health Powers Act: A Checklist of Issues* is the product of the National Conference of State Legislatures' (NCSL) Public Health Projects, an initiative to inform state legislatures about priority public health issues. The Public Health Projects provide state legislatures with information and technical assistance about public health policy issues.

The terrorist attacks on Sept. 11, 2001, in New York, Washington, D.C. and Pennsylvania, and the further attacks of anthrax in Florida, New York, Washington, D.C. and Connecticut have changed the nation as our vulnerabilities became obvious. Those who represent us at the local, state and federal levels have been charged with assuring their constituencies that these vulnerabilities will be reduced or eliminated. This is no small task.

The Model State Emergency Health Powers Act was developed by Larry Gostin, J.D.; James G. Hodge, Jr., J.D., LL.M., and the staff at the Center for Law and the Public's Health at Georgetown and Johns Hopkins universities. The act was developed from existing state laws on public health emergency preparedness.

According to the authors, the purpose of the Model State Emergency Health Powers Act, was meant to play a part in the nation's response to terrorism by filling gaps that may have arisen in public health law at the state level. It has been many years since the United States has needed to conduct mass vaccination campaigns, to quarantine large numbers of infected, to ensure the rights of those exposed, or to shut down mass transportation because of disease. Over the years, public health legislation—that may have been effective when written a century ago—either aged, was altered, or was limited in some way. Examples of such state laws include a \$10 fine for violation of quarantine, removing smallpox from the list of reportable diseases, and limiting the ability of state agencies to isolate the infected to only those with tuberculosis. In this changed nation, policies in these and other related areas may need to be reviewed for potential change.

The authors wish to thank the staff at the Center for Law and the Public's Health for their support and attentiveness to members' comments throughout the course of the working group meetings.

The authors created this checklist on the Model State Emergency Health Powers Act after two working groups of dedicated legislators and legislative staff members reviewed and made comments about the Act. We wish to thank the following legislators and legislative staff for their efforts:

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The authors also wish to thank the Centers for Disease Control and Prevention (CDC) for their support of this effort. Thanks to Heather Horton, J.D., of CDC's Office of General Counsel for attending both meetings and assisting with the questions of the group. Thanks also to NCSL staff Ron Snell, Doug Farquhar, Ellen Mees, Joy Johnson Wilson and Rachel Morgan for their assistance both in conducting the groups and in drafting this publication. We hope state legislators, legislative staff and public health experts find this book useful. We welcome your feedback.

# INTRODUCTION

This checklist was developed at the request of legislators and legislative staff who assisted National Conference of State Legislatures (NCSL) staff with the review of the Model State Emergency Health Powers Act. This working group was created with the support of the Centers for Disease Control and Prevention (CDC) to express a legislative perspective about the model act. In two sessions, the participants provided comments on the model act, which were forwarded to the drafters of the act and incorporated into the second draft of the document.

NCSL does not endorse or recommend passage of the Model State Emergency Health Powers Act. This document and the checklist questions are provided as a service to legislators and their staff who are considering changes to state statutes regarding public health emergencies.

Legislative participants stated that their existing state law addresses many of the issues covered in the act. The working group believed that it is feasible to amend their statutes where needed to address public health emergencies. Furthermore, the group believed that it would be difficult to enact such broad changes as the act proposes in a single legislative session.

The group suggested that NCSL staff create a checklist of issues raised by the model act, so that legislators and legislative staff could review their laws from the perspective of the act. The model act then could provide suggested language for those areas not addressed by state law. If state laws are already adequate, the checklist could provide the assurance that it would work effectively in the event of a public health emergency.

The model act was developed from state statutes by Professors Larry Gostin and James Hodge of the Center for

Law and the Public's Health at Georgetown and Johns Hopkins universities, in conjunction with the Centers for Disease Control and Prevention and with permission of the Turning Point Project of the Robert Wood Johnson Foundation. The act is a portion of what will be a comprehensive statutory model of public health law. This larger model public health law is being developed through professors Gostin and Hodge with the Public Health Statute Modernization National Collaborative of Turning Point, a Robert Wood Johnson-sponsored project to assist selected states to make comprehensive improvements in public health practice. The states participating in the Statute Modernization Collaborative are Alaska, Arizona, Colorado, Nebraska, Oregon, Washington and Wisconsin. Also represented on the collaborative are professors from several schools of public health, staff from Health Resources Services Administration, the Centers for Disease Control and Prevention, and NCSL's Public Health Projects.

The checklist is arranged as follows:

- The article number and text of the act are on the left column of the page. This allows the user to review the section of the model act in its entirety or find suggested language. A summary of the purposes of the act accompanies Article I. The summary was drawn from the Gostin/Hodge preamble to the act, which is not included here.
- The checklist questions follow the specifications and are listed in the grey column on the right side of the page. These questions are intended to help states determine whether existing statutes provide the same authorities or powers deemed necessary in each article of the model act.

- The discussion section in the grey column provides more detailed information about the section —why the components of the act were thought to be important. This section also includes comments from the working group members.

The staff at NCSL hopes this checklist will prove useful in determining your statutory needs in controlling the

effects of a public health emergency. For more information about the model act and the Center for Law and the Public's Health, visit their Web site at [www.publichealthlaw.net](http://www.publichealthlaw.net). Please forward your comments about the checklist to Lisa Speissegger at NCSL (phone number: [303] 894-3199 or e-mail at: [lisa.speissegger@ncsl.org](mailto:lisa.speissegger@ncsl.org))



## Article I. Title, Findings, Purposes and Definitions

**Section 11 Short title.** This Act may be cited as the “Model State Emergency Health Powers Act.”

**Section 12 Legislative findings.** The [state legislature] finds that—

- (1) The government must do more to protect the health, safety, and general well being of its citizens.
- (2) New and emerging dangers—including emergent and resurgent infectious diseases and incidents of civilian mass casualties—pose serious and immediate threats.
- (3) A renewed focus on the prevention, detection, management, and containment of public health emergencies is needed.
- (4) Emergency health threats, including those caused by bioterrorism may require the exercise of extraordinary government powers and functions.
- (5) This State must have the ability to respond, rapidly and effectively, to potential or actual public health emergencies.
- (6) The exercise of emergency health powers must promote the common good.
- (7) Emergency health powers must be grounded in a thorough scientific understanding of public health threats and disease transmission.
- (8) Guided by principles of justice and antidiscrimination, it is the duty of this State to act with fairness and tolerance towards individuals and groups.
- (9) The rights of people to liberty, bodily integrity, and privacy must be respected to the fullest extent possible consistent with maintaining and preserving the public’s health and security.
- (10) This Act is necessary to protect the health and safety of the citizens of this State.

**Section 13 Purposes.** The purposes of this Act are—

- (1) To require the development of a comprehensive plan to provide for a coordinated, appropriate response in the event of a public health emergency.
- (2) To authorize the reporting and collection of data and records, the management of property, the protection of persons, and access to communications.
- (3) To facilitate the early detection of a health emergency, and allow for immediate investigation of such an emergency by granting access to individuals’ health information under specified circumstances.
- (4) To grant State and local officials the authority to use and appropriate property as necessary for the care, treatment, vaccination, and housing of patients, and to destroy contaminated facilities or materials.
- (5) To grant State and local officials the authority to provide care, treatment, and vaccination to persons who are ill or who have been exposed to contagious diseases, and to separate affected individuals from the population at large to interrupt disease transmission.
- (6) To ensure that the needs of infected or exposed persons are properly addressed to the fullest extent possible, given the primary goal of controlling serious health threats.

## Purposes of the Model Act

The purposes of the model act are :

- To require the development of a comprehensive plan in the event of a public health emergency;
- To authorize collection of information, manage property, and have access to communicate to the public;
- To facilitate the detection and investigation of an emergency by having access to personal health information;
- To use and appropriate property as necessary;
- To provide care for infected and exposed people, including isolation and quarantine; and
- To insure that the needs of infected or exposed people are fully met, to the extent possible to allow authorities the ability to respond to health threats without interfering with civil rights or liberties.

“Purposes” and “findings” may or may not be a part of individual state statutes. States that are reviewing the model act may want to use the “findings” and “purposes” as a secondary checklist to determine if their proposed actions meet these goals.

- (7) To provide State and local officials with the ability to prevent, detect, manage, and contain emergency health threats without unduly interfering with civil rights and liberties.

#### Section 14 Definitions.

- (1) **"Bioterrorism"** is the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population.
- (2) **"Chain of custody"** is the methodology of tracking specimens for the purpose of maintaining control and accountability from initial collection to final disposition of the specimens and providing for accountability at each stage of collecting, handling, testing, storing, and transporting the specimens and reporting test results.
- (3) **"Contagious disease"** is an infectious disease that can be transmitted from person to person.
- (4) **"Health care facility"** means any non-federal institution, building, or agency or portion thereof, whether public or private (for-profit or nonprofit) that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. This includes, but is not limited to: ambulatory surgical facilities, home health agencies, hospices, hospitals, infirmaries, intermediate care facilities, kidney treatment centers, long term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, skilled nursing facilities, and adult day-care centers. This also includes, but is not limited to, the following related property when used for or in connection with the foregoing: laboratories; research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities; patient, guest, and health personnel food service facilities; and offices and office buildings for persons engaged in health care professions or services.
- (5) **"Health care provider"** is any person or entity who provides health care services including, but not limited to, hospitals, medical clinics and offices, special care facilities, medical laboratories, physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses, paramedics, emergency medical or laboratory technicians, and ambulance and emergency medical workers.
- (6) **"Infectious disease"** is a disease caused by a living organism or other pathogen, including a fungus, bacteria, parasite, protozoan, or virus. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.
- (7) **"Infectious waste"** is—
  - (1) **"biological waste,"** which includes blood and blood products, excretions, exudates, secretions, suctioning and other body fluids, and waste materials saturated with blood or body fluids;

#### Checklist Questions for Article I

##### 1. Do current state statutes contain definitions for either of the following:

Bioterrorism	Yes	No
Public Health Emergency	Yes	No

##### 2. If no to both of the above, do current state laws cover emergencies such as exposure to toxic agents, BOTH unintentional and intentional?

Yes No

##### 3. If yes to #2, does state law require the inclusion of the designated public health authority as a component of the emergency response team in a toxic exposure emergency?

Yes No

##### 4. If no to #3, does your state need to create law to:

###### a. Make the public health authority responsible for either acts of bioterrorism or epidemics of disease?

Yes No

###### b. Include the public health authority, definitions of bioterrorism and epidemic disease in existing emergency management statutes?

Yes No

#### Discussion

This section of the Model Act states the following in summary:

- Government (not specific as to state, federal or local) must do more to protect citizens.
- New and emerging dangers pose serious and immediate health threats.
- There should be a renewed focus on the components of care in a public health emergency.
- Emergency health threats may require extraordinary government powers and functions.
- The state must be able to respond quickly and effectively to any public health emergency.
- Actions of emergency health powers must promote the common good.
- Emergency health powers must be grounded in science.
- Emergency health powers must act with fairness and tolerance.
- Rights of privacy, bodily integrity, and privacy must be respected to the fullest extent possible.
- The Act is necessary to protect the health and safety of the citizens of (said) state.

- (2) “**cultures and stocks**,” which includes etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate, and mix cultures, wastes from production of biologicals and serums, and discarded live and attenuated vaccines;
  - (3) “**pathological waste**,” which includes biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, necropsy or autopsy and laboratory procedures, and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals, but does not include teeth or formaldehyde or other preservative agents; and
  - (4) “**sharps**,” which includes needles, I.V. tubing with needles attached, scalpel blades, lancets, breakable glass tubes, and syringes that have been removed from their original sterile containers.
- (8) “**Isolation**” is the physical separation and confinement of an individual or groups of individuals who are infected or reasonably believed to be infected with a contagious or possibly contagious disease from non-isolated individuals, to prevent or limit the transmission of the disease to non-isolated individuals.
- (9) “**Mental health support personnel**” includes, but is not limited to, psychiatrists, psychologists, social workers, and volunteer crisis counseling groups.
- (10) “**Organized militia**” includes the State National Guard, the army national guard, the air national guard, or any other military force organized under the laws of this state.
- (11) “**Protected health information**” is any information, whether oral, written, electronic, visual, or any other form, that relates to an individual’s past, present, or future physical or mental health status, condition, treatment, service, products purchased, or provision of care, and that reveals the identity of the individual whose health care is the subject of the information, or where there is a reasonable basis to believe such information could be utilized (either alone or with other information that is, or should reasonably be known to be, available to predictable recipients of such information) to reveal the identity of that individual.
- (12) “**Public health authority**” is the *[insert the title of the state’s primary public health agency, department, division, or bureau]*; or any local government agency that acts principally to protect or preserve the public’s health; or any person directly authorized to act on behalf of the *[insert the title of the state’s primary public health agency, department, division, or bureau]* or local public health agency.
- (13) A “**public health emergency**” is an occurrence or imminent threat of an illness or health condition that:
  - (1) is believed to be caused by any of the following:
    - (1) bioterrorism;
    - (2) the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin;
    - (3) *[a natural disaster]*

Some of the findings in the model act may not be appropriate for inclusion in a particular state’s bill. This list above is comprehensive to all parts of the model act.

For this section, most states will need to determine whether their statutes include a definition of:

- bioterrorism and/or
- public health emergency.

“Bioterrorism” is a new word — most dictionaries do not include its definition. If states do not want to limit themselves or the public health agencies to events caused only by viruses, bacteria, or other biological agents, the second definition of “public health emergency” would be more appropriate. By adopting the public health emergency definition, the state can address events such as toxic agents (sarin gas, for example), nuclear materials exposure, or other non-biological health hazards.

Definitions for the following are probably in other parts of each state’s statutes:

- trial court,
- organized militia,
- public safety authority,
- mental health support personnel, and
- chain of custody.

For the above definitions, states may or may not want to adopt the model act definitions, especially if the state’s statutes addressing judiciary, public safety, and mental health or hygiene already have some provision addressing an emergency situation.

- (4) [a chemical attack or accidental release; or]
  - (5) [a nuclear attack or accident]; and
- (2) poses a high probability of any of the following harms:
  - (1) a large number of deaths in the affected population;
  - (2) a large number of serious or long-term disabilities in the affected population; or
  - (3) widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.
- (14) “**Public safety authority**” means the [insert the title of the state’s primary public safety agency, department, division, or bureau]; or any local government agency that acts principally to protect or preserve the public safety; or any person directly authorized to act on behalf of the [insert the title of the state’s primary public safety agency, department, division, or bureau] or local agency.
- (15) “**Quarantine**” is the physical separation and confinement of an individual or groups of individuals, who are or may have been exposed to a contagious or possibly contagious disease and who do not show signs or symptoms of a contagious disease, from non-quarantined individuals, to prevent or limit the transmission of the disease to non-quarantined individuals.
- (16) “**Specimens**” include, but are not limited to, blood, sputum, urine, stool, other bodily fluids, wastes, tissues, and cultures necessary to perform required tests.
- (17) “**Tests**” include, but are not limited to, any diagnostic or investigative analyses necessary to prevent the spread of disease or protect the public’s health, safety, and welfare.
- (1) (18) “**Trial court**” is the trial court for the district in which isolation or quarantine is to occur, a court designated by the Public Health Emergency Plan under Article II of this Act, or to the trial court for the district in which a public health emergency has been declared.

*Legislative History.* The definition for “bioterrorism” was adapted from its definition in 18 U.S.C.A. § 178 (West 2000) and from definitions used by the General Accounting Office. The definitions of “chain of custody,” “specimens,” and “tests” were adapted from ALA. CODE § 25-5-331 (2000). The definition of “health care facility” was adapted from ARK. CODE ANN. § 20-13-901 (Michie 2000); CAL. BUS. & PROF. CODE § 4027 (West 2001); FLA. STAT. ANN. § 159.27 (West 2000). The definition of “health care provider” was adapted from OKLA. STAT. ANN. tit. 74, § 1304 (West 2001). The definition of “infectious waste” was adapted from OR. REV. STAT. § 459.386 (1999). The definition for “organized militia” was adapted from NY CLS MILITARY § 1 (2001), MISS CODE ANN § 33-1-1 (2001), O.C.G.A. § 38-2-2 (2000), and CONN. GEN. STAT. § 27-141 (2001). The definitions of “public health authority” and “protected health information” were adapted from LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999. The definition of a “public health emergency” was adapted from COLO. REV. STAT. ANN. § 24-32-2103(1.5) (West 2001).



- (2) sites where medical supplies, food, and other essentials can be distributed to the population;
  - (3) sites where public health and emergency workers can be housed and fed; and
  - (4) routes and means of transportation of people and materials;
  - (14) Cultural norms, values, religious principles, and traditions that may be relevant; and
  - (15) Other measures necessary to carry out the purposes of this Act.
- (2) **Distribution.** The Commission shall distribute this plan to those who will be responsible for its implementation, other interested persons, and the public, and seek their review and comments.
- (3) **Review.** The Commission shall annually review its plan for responding to a public health emergency.

*Legislative History.* Section 202 is adapted from COLO. REV. STAT. ANN. § 24-32-2104 (West 2001); 2001 ILL. LAWS 73(5).

### Article III. Measures to Detect and Track Public Health Emergencies

#### ARTICLE 3 MEASURES TO DETECT AND TRACK PUBLIC HEALTH EMERGENCIES

##### Section 31 Reporting.

- (1) **Illness or health condition.** A health care provider, coroner, or medical examiner shall report all cases of persons who harbor any illness or health condition that may be potential causes of a public health emergency. Reportable illnesses and health conditions include, but are not limited to, the diseases caused by the biological agents listed in 42 C.F.R. § 72, app. A (2000) and any illnesses or health conditions identified by the public health authority.
- (2) **Pharmacists.** In addition to the foregoing requirements for health care providers, a pharmacist shall report any unusual or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may be potential causes of a public health emergency. Prescription-related events that require a report include, but are not limited to—
- (1) an unusual increase in the number of prescriptions or over-the-counter pharmaceuticals to treat conditions that the public health authority identifies through regulations;
  - (2) an unusual increase in the number of prescriptions for antibiotics; and
  - (3) any prescription that treats a disease that is relatively uncommon or may be associated with bioterrorism.
- (3) **Manner of reporting.** The report shall be made electronically or in writing within [twenty-four (24) hours] to the public health authority. The report shall include as much of the following information as is available: the specific illness or health condition that is the subject of the report; the patient's name, date of birth, sex, race, occupation, and current home and work addresses (including city and county); the name and address of the health care provider, coroner, or medical examiner and of the

meets the requirements for federal funding to avoid the duplication of efforts.

In some states, it may require the involvement of the state's governor to convene the described "task force", because the various agencies and departments already may have created their own internal "task force" and may be reluctant to participate in yet another group.

In a widespread emergency, additional support from the judiciary may be needed to process quarantine orders, hear protests and perform other court-ordered functions. Members of the judiciary (attorneys general, district attorneys, judges, etc.) may need to be included in the planning of an emergency response.

#### Checklist Questions for Article III

1. Does the state's disease reporting laws include the following health care professionals:
 

Pharmacists?	Yes	No
Veterinarians?	Yes	No
2. If no to either of the above health care professionals, should they be included in statute?
 

Yes	No
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- reporting individual, if different; and any other information needed to locate the patient for follow-up. For cases related to animal or insect bites, the suspected locating information of the biting animal or insect, and the name and address of any known owner, shall be reported.
- (1) (4) **Animal diseases.** Every veterinarian, livestock owner, veterinary diagnostic laboratory director, or other person having the care of animals shall report animals having or suspected of having any diseases that may be potential causes of a public health emergency. The report shall be made electronically or in writing within [twenty-four (24) hours] to the public health authority and shall include as much of the following information as is available: the specific illness or health condition that is the subject of the report; the suspected locating information of the animal, the name and address of any known owner, and the name and address of the reporting individual.
  - (5) **Laboratories.** For the purposes of this Section, the definition of “health care provider” shall include out-of-state medical laboratories, provided that such laboratories have agreed to the reporting requirements of this State. Results must be reported by the laboratory that performs the test, but an in-state laboratory that sends specimens to an out-of-state laboratory is also responsible for reporting results.
  - (6) **Enforcement.** The public health authority may enforce the provisions of this Section in accordance with existing enforcement rules and regulations.

*Legislative History.* In Section 301, the language used in Subsections (a) - (d) were adapted from 6 COLO. CODE REGS. § 1009-1, reg. 1 (WESTLAW through 2001), except that the lists of events in (b) was adapted from the *Bioterrorism Readiness Plan: A Template for Healthcare Facilities* (Prepared by APIC Bioterrorism Task Force & CDC Hospital Infections Program Bioterrorism Working Group). Subsection (e) was adapted from 6 COLO. CODE REGS. § 1009-1, reg. 3 (WESTLAW through 2001).

**Section 32 Tracking.** The public health authority shall ascertain the existence of cases of an illness or health condition that may be potential causes of a public health emergency; investigate all such cases for sources of infection and to ensure that they are subject to proper control measures; and define the distribution of the illness or health condition. To fulfill these duties, the public health authority shall identify exposed individuals as follows—

- (1) **Identification of individuals.** Acting on information developed in accordance with Section 301 of this Act, or other reliable information, the public health authority shall identify all individuals thought to have been exposed to an illness or health condition that may be a potential cause of a public health emergency.
- (2) **Interviewing of individuals.** The public health authority shall counsel and interview such individuals where needed to assist in the positive identification of exposed individuals and develop information relating to the source and spread of the illness or health condition. Such information includes the name and address (including city and county) of any person from whom the illness or health condition may have been contracted and to whom the illness or health condition may have spread.
- (3) **Examination of facilities or materials.** The public health authority shall, for examination purposes, close, evacuate, or de-

contaminate any facility or decontaminate or destroy any material when the authority reasonably suspects that such facility or material may endanger the public health.

- (1) (4) **Enforcement.** The public health authority may enforce the provisions of this Section in accordance with existing enforcement rules and regulations. An order of the public health authority given to effectuate the purposes of this Section shall be enforceable immediately by the public safety authority.

*Legislative History.* In Section 302, the main text under “Tracking” was adapted from CAL. HEALTH & SAFETY CODE § 120575 (West 1996). Subsections (a) and (b) were adapted from FLA. STAT. ANN. § 392.54 (West 1998); CAL. HEALTH & SAFETY CODE § 120555 (West 1996); N.Y. COMP. CODES R. & REGS. tit. 10, § 2.6 (LEXIS through Oct. 12, 2001).

### Section 33 Information sharing.

- (1) Whenever the public safety authority or other state or local government agency learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that may be the cause of a public health emergency, it shall immediately notify the public health authority.
- (2) Whenever the public health authority learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that it reasonably believes has the potential to be caused by bioterrorism, it shall immediately notify the public safety authority, tribal authorities, and federal health and public safety authorities.
- (3) Sharing of information on reportable illnesses, health conditions, unusual clusters, or suspicious events between public health and safety authorities shall be restricted to the information necessary for the treatment, control, investigation, and prevention of a public health emergency.

*Legislative History.* Section 303 was adapted from 6 COLO. CODE REGS. § 1009-1, reg. 6 (WESTLAW through 2001).

3. **Does the public health authority have the ability to share information with the Office of Emergency Management, law enforcement agencies, and other state agency personnel for control of the event?**

Yes

No

### Discussion

Most states have reporting requirements in their statutes. Some may be very specific, while others may defer to departmental regulations. Even if state statutes are specific, state regulations usually expand to give specifics regarding diseases or conditions considered important, the timeframes in which reporting should occur, and the types of health care professionals required to report. In most states, reporting by pharmacy personnel currently is not a part of statute or regulation. The purpose of including pharmacists is that, in the initial stages of a public health emergency, citizens might first try to self-medicate using over-the-counter medications. Including pharmacists in identifying a potential public health emergency might be important to a state. State legislators may want to determine whether state regulations address the important points before they amend state statutes.

Similar to “reporting”, state statutes may not include the scope of the practice of epidemiology, instead leaving that to state regulations. Again, state legislators may first want to determine if the state public health authority has appropriate regulations to meet this need.

The “information sharing” section would likely be new to most state statutes. This section proposes formal inter-agency communication between the public health authority and other affected agencies. This sort of communication probably was already occurring already in a less formal manner or may have been written into state regulation. The state must consider whether sharing medical information between agencies in a public health emergency constitutes a liability if there is no statute or regulation that allows the practice.



## Article IV. Declaring a State of Public Health Emergency

**Section 41 Declaration.** A state of public health emergency may be declared by the Governor upon the occurrence of a “public health emergency” as defined in Section 1-103(m). Prior to such a declaration, the Governor shall consult with the public health authority and may consult with any additional public health or other experts as needed. The Governor may act to declare a public health emergency without consulting with the public health authority or other experts when the situation calls for prompt and timely action.

*Legislative History.* Section 401 is adapted from language contained in COLO. REV. STAT. ANN. §§ 24-32-2104(3)(a), 4 (West 2001); 42 U.S.C.A. § 247d (West 1991 & Supp. 2001).

**Section 42 Content of declaration.** A state of public health emergency shall be declared by an executive order that specifies:

- (1) the nature of the public health emergency,
- (2) the political subdivision(s) or geographic area(s) subject to the declaration,
- (3) the conditions that have brought about the public health emergency,
- (4) the duration of the state of the public health emergency, if less than thirty (30) days, and
- (5) the primary public health authority responding to the emergency.

*Legislative History.* Section 402 is adapted from COLO. REV. STAT. ANN. § 24-32-2104(4) (West 2001); 2001 LA. ACTS 1148.

**Section 43 Effect of declaration.** The declaration of a state of public health emergency shall activate the disaster response and recovery aspects of the State, local, and inter-jurisdictional disaster emergency plans in the affected political subdivision(s) or geographic area(s). Such declaration authorizes the deployment and use of any forces to which the plans apply and the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or available pursuant to this Act.

- (1) **Emergency powers.** During a state of public health emergency, the Governor may:
  - (1) Suspend the provisions of any regulatory statute prescribing procedures for conducting State business, or the orders, rules and regulations of any State agency, to the extent that strict compliance with the same would prevent, hinder, or delay necessary action (including emergency purchases) by the public health authority to respond to the public health emergency, or increase the health threat to the population.
  - (2) Utilize all available resources of the State government and its political subdivisions, as reasonably necessary to respond to the public health emergency.
  - (3) Transfer the direction, personnel, or functions of State departments and agencies in order to perform or facilitate response and recovery programs regarding the public health emergency.
  - (4) Mobilize all or any part of the organized militia into service of the State. An order directing the organized militia to report for active duty shall state the purpose for which it is mobilized and the objectives to be ac-

## Checklist Questions for Article IV

1. Are public health emergencies included in the governor's current powers to declare an emergency?  
Yes                      No
2. Does current legislation provide a governor with adequate authority to address a public health emergency?  
Yes                      No
3. How do the powers proposed in the model act compare with those in existing law?

- (5) Provide aid to and seek aid from other states in accordance with any interstate emergency compact made with this State.
  - (6) Seek aid from the federal government in accordance with federal programs or requirements.
- (2) **Coordination.** The public health authority shall coordinate all matters pertaining to the public health emergency response of the State. The public health authority shall have primary jurisdiction, responsibility, and authority for:
  - (1) Planning and executing public health emergency assessment, mitigation, preparedness response, and recovery for the State;
  - (2) Coordinating public health emergency response between State and local authorities;
  - (3) Collaborating with relevant federal government authorities, elected officials of other states, private organizations or companies;
  - (4) Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies; and
  - (5) Organizing public information activities regarding public health emergency response operations.
- (3) **Identification.** After the declaration of a state of public health emergency, special identification for all public health personnel working during the emergency shall be issued as soon as possible. The identification shall indicate the authority of the bearer to exercise public health functions and emergency powers during the state of public health emergency. Public health personnel shall wear the identification in plain view.

*Legislative History.* The main text of Section 403 was adapted from COLO. REV. STAT. ANN. § 24-32-2104(5) (West 2001); 2001 ILL. LAWS 73(11). Section 403, Subsection (a) was adapted from 2001 ILL. LAWS 73(7); except that paragraph (4) was adapted from ARIZ. REV. STAT. ANN. § 26-172 (West 2000). Subsection (b) was drafted in consideration of the Emergency Management Assistance Compact and Alaska's Interstate Civil Defense and Disaster Compact, As. § 26.23.130. Subsection (c) was adapted from KY. REV. STAT. ANN. § 39A.050(2)(d) (LEXIS through 2001 Sess.).

**Section 44 Enforcement.** During a state of public health emergency, the public health authority may request assistance in enforcing orders pursuant to this Act from the public safety authority. The public safety authority may request assistance from the organized militia in enforcing the orders of the public health authority.

*Legislative History.* Section 404 was adapted from ARIZ. REV. STAT. ANN. § 26-172 (West 2000).

Section 45 Termination of declaration.

- (1) **Executive order.** The Governor shall terminate the declaration of a state of public health emergency by executive order upon finding that the occurrence of an illness or health condition that caused the emergency no longer poses a high probability of a large number of deaths in the affected population, a large number of incidents of serious permanent or long-term disability in the affected population, or a significant risk of substantial future harm to a large number of people in the affected population.

- (2) **Automatic termination.** Notwithstanding any other provision of this Act, the declaration of a state of public health emergency shall be terminated automatically after thirty (30) days unless renewed by the Governor under the same standards and procedures set forth in this Article. Any such renewal shall also be terminated automatically after thirty (30) days unless renewed by the Governor under the same standards and procedures set forth in this Article.
- (3) **State legislature.** By a majority vote in both chambers, the State legislature may terminate the declaration of a state of public health emergency at any time from the date of original declaration upon finding that the occurrence of an illness or health condition that caused the emergency does not or no longer poses a high probability of a large number of deaths in the affected population, a large number of incidents of serious permanent or long-term disability in the affected population, or a significant risk of substantial future harm to a large number of people in the affected population. Such a termination by the State legislature shall override any renewal by the Governor.
- (4) **Content of termination order.** All orders or legislative actions terminating the declaration of a state of public health emergency shall indicate the nature of the emergency, the area(s) that was threatened, and the conditions that make possible the termination of the declaration.

*Legislative History.* Section 405 was adapted from COLO. REV. STAT. ANN. §§ 24-32-2104(3)(a), 4 (West 2001); 42 U.S.C.A. § 247d (West 1991 & Supp. 2001); 2001 LA. ACTS 1148.

## Article V. Special Powers During a State of Public Health Emergency: Control of Property

### ARTICLE 5—SPECIAL POWERS DURING A STATE OF PUBLIC HEALTH EMERGENCY: MANAGEMENT OF PROPERTY

**Section 51 Emergency measures concerning facilities and materials.** The public health authority may exercise, for such period as the state of public health emergency exists, the following powers over facilities or materials—

- (1) **Facilities.** To close, direct and compel the evacuation of, or to decontaminate or cause to be decontaminated any facility of which there is reasonable cause to believe that it may endanger the public health.
- (2) **Materials.** To decontaminate or cause to be decontaminated, or destroy any material of which there is reasonable cause to believe that it may endanger the public health.

*Legislative History.* In Section 501, Subsection (a) was adapted from GA. CODE ANN. § 38-3-51 (1995); Subsection (b) was adapted from COLO. REV. STAT. ANN. § 24-32-2104 (West 2001).

**Section 52 Access to and control of facilities and property —generally.** The public health authority may exercise, for such period as the state of public health emergency exists, the following powers concerning facilities, materials, roads, or public areas —

- (1) **Use of materials and facilities.** To procure, by condemnation or otherwise, construct, lease, transport, store, maintain, renovate, or distribute materials and facilities as may be reasonable

### 3. Does the legislature have the power to terminate a declaration of emergency?

Yes

No

### Discussion

“Declaration of a state of emergency” by the governor’s office is found in many different areas of state statutes, including military, business, environmental, and health statutes. Most statutes do not include specific language as to acts of bioterrorism or epidemics of disease, although it may be implied or may be further defined in regulation. Also, in many states the legislature is not included as a decisionmaker in the determination of an emergency; however, other laws may allow the legislature to have a role in either the declaration or termination of an emergency.

### Checklist Questions for Article V

1. Does state law currently allow the ability to close, evacuate or decontaminate private property for issues of safety? (examples could be the seizure of property where meth-amphetamines were being produced or abatement of toxic chemical spills on roadways.)

Yes

No

- and necessary to respond to the public health emergency, with the right to take immediate possession thereof. Such materials and facilities include, but are not limited to, communication devices, carriers, real estate, fuels, food, and clothing.
- (2) **Use of health care facilities.** To require a health care facility to provide services or the use of its facility if such services or use are reasonable and necessary to respond to the public health emergency as a condition of licensure, authorization or the ability to continue doing business in the state as a health care facility. The use of the health care facility may include transferring the management and supervision of the health care facility to the public health authority for a limited or unlimited period of time, but shall not exceed the termination of the declaration of a state of public health emergency.
- (3) **Control of materials.** To inspect, control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of food, fuel, clothing and other commodities, as may be reasonable and necessary to respond to the public health emergency.
- (1) (4) **Control of roads and public areas.**
- (1) To prescribe routes, modes of transportation, and destinations in connection with evacuation of persons or the provision of emergency services.
- (2) To control or limit ingress and egress to and from any stricken or threatened public area, the movement of persons within the area, and the occupancy of premises therein, if such action is reasonable and necessary to respond to the public health emergency.

*Legislative History.* In Section 502, Subsections (a) and (b) were adapted from GA. CODE ANN. § 38-3-51 (1995). Subsections (c) and (d) were adapted from 2001 LA. ACTS 1148; 2001 ILL. LAWS 73; except that (d)(2) also had GA. CODE ANN. § 38-3-51 (1995) as a source.

**Section 53 Safe disposal of infectious waste.** The public health authority may exercise, for such period as the state of public health emergency exists, the following powers regarding the safe disposal of infectious waste—

- (1) **Adopt measures.** To adopt and enforce measures to provide for the safe disposal of infectious waste as may be reasonable and necessary to respond to the public health emergency. Such measures may include, but are not limited to, the collection, storage, handling, destruction, treatment, transportation, and disposal of infectious waste.
- (2) **Control of facilities.** To require any business or facility authorized to collect, store, handle, destroy, treat, transport, and dispose of infectious waste under the laws of this State, and any landfill business or other such property, to accept infectious waste, or provide services or the use of the business, facility, or property if such action is reasonable and necessary to respond to the public health emergency as a condition of licensure, authorization, or the ability to continue doing business in the state as such a business or facility. The use of the business, facility, or property may include transferring the management and supervision of such business, facility, or property to the public health authority for a limited or unlimited period of time, but shall not exceed the termination of the declaration of a state of public health emergency.

2. If yes to #1, could public health events be included in these statutes?  
Yes No
3. If no to #1, should new legislation on public health emergencies be created to allow for closure, evacuation, or decontamination of property?  
Yes No
4. What is the state's relationship with private health care providers (regulation, coordination, cooperation? Positive/negative?) \_\_\_\_\_
5. In a public health emergency, could the state reliably expect full cooperation in any area of the state from private health care providers (including but not limited to the sharing of employees, pharmaceuticals and buildings) based on existing law or regulation?  
Yes No
6. In a public health emergency, could the state reliably expect full cooperation (based on existing law or regulation) from private citizens in the use or destruction of property?  
Yes No
7. Does state law cover the fair market reimbursement of the above-mentioned private health care providers and private citizens for these services or for the destruction of private property?  
Yes No

- (3) **Use of facilities.** To procure, by condemnation or otherwise, any business or facility authorized to collect, store, handle, destroy, treat, transport, and dispose of infectious waste under the laws of this State and any landfill business or other such property as may be reasonable and necessary to respond to the public health emergency, with the right to take immediate possession thereof.
- (4) **Identification.** All bags, boxes, or other containers for infectious waste shall be clearly identified as containing infectious waste, and if known, the type of infectious waste.

*Legislative History.* In Section 503, Subsection (d) was adapted from OR. REV. STAT. § 459.390 (1999); MINN. STAT. ANN. § 116.78(2) (West 1997 & Supp. 2001); MONT. CODE ANN. § 75-10-1005 (2001).

**Section 54 Safe disposal of human remains.** The public health authority may exercise, for such period as the state of public health emergency exists, the following powers regarding the safe disposal of human remains—

- (1) **Adopt measures.** To adopt and enforce measures to provide for the safe disposal of human remains as may be reasonable and necessary to respond to the public health emergency. Such measures may include, but are not limited to, the embalming, burial, cremation, interment, disinterment, transportation, and disposal of human remains.
- (2) **Possession.** To take possession or control of any human remains.
- (3) **Disposal.** To order the disposal of any human remains of a person who has died of a contagious disease through burial or cremation within twenty-four (24) hours after death. To the extent possible, religious, cultural, family, and individual beliefs of the deceased person or his or her family shall be considered when disposing of any human remains.
- (4) **Control of facilities.** To require any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of human remains under the laws of this State to accept any human remains or provide the use of its business or facility if such actions are reasonable and necessary to respond to the public health emergency as a condition of licensure, authorization, or the ability to continue doing business in the state as such a business or facility. The use of the business or facility may include transferring the management and supervision of such business or facility to the public health authority for a limited or unlimited period of time, but shall not exceed the termination of the declaration of a state of public health emergency.
- (5) **Use of facilities.** To procure, by condemnation or otherwise, any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of human remains under the laws of this State as may be reasonable and necessary to respond to the public health emergency, with the right to take immediate possession thereof.
- (6) **Labeling.** Every human remains prior to disposal shall be clearly labeled with all available information to identify the decedent and the circumstances of death. Any human remains of a deceased person with a contagious disease shall have an external, clearly visible tag indicating that the human remains is infected and, if known, the contagious disease.

- 8. Does state law regarding disposal of infectious waste have allowances for changes to the methods of appropriate disposal?

Yes

No

- 9. Does state law regarding safe disposal of infectious corpses reference religious practices?

Yes

No

- (1) (7) **Identification.** Every person in charge of disposing of any human remains shall maintain a written or electronic record of each human remains and all available information to identify the decedent and the circumstances of death and disposal. If human remains cannot be identified prior to disposal, a qualified person shall, to the extent possible, take fingerprints and photographs of the human remains, obtain identifying dental information, and collect a DNA specimen. All information gathered under this paragraph shall be promptly forwarded to the public health authority.

*Legislative History.* In Section 504, Subsection (a) is adapted from CAL. HEALTH & SAFETY CODE § 102115 (West 1996); GA. CODE ANN. § 43-18-72(b) (1999). Subsection (b) is adapted from CAL. HEALTH & SAFETY CODE § 120140 (West 1996). Subsection (c) is adapted from OHIO REV. CODE ANN. § 3707.19 (Anderson 1999). Subsection (d) is adapted from KY. REV. STAT. ANN. § 39F.020(4) (LEXIS through 2001 Sess.). Subsection (f) is adapted from LA. REV. STAT. ANN. § 40:1099.1 (West 2001). Subsection (g) was adapted from OHIO REV. CODE ANN. § 313.08 (Anderson 1998 & Supp. 2000).

## Section 55 Control of health care supplies.

- (1) **Procurement.** The public health authority may purchase and distribute anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies that it deems advisable in the interest of preparing for or controlling a public health emergency, without any additional legislative authorization.
- (2) **Rationing.** If a state of public health emergency results in a state-wide or regional shortage or threatened shortage of any product under (a), whether or not such product has been purchased by the public health authority, the public health authority may control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the public health, safety, and welfare of the people of the State.
- (3) **Priority.** In making rationing or other supply and distribution decisions, the public health authority may give preference to health care providers, disaster response personnel, and mortuary staff.
- (1) (4) **Distribution.** During a state of public health emergency, the public health authority may procure, store, or distribute any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the State as may be reasonable and necessary to respond to the public health emergency, with the right to take immediate possession thereof. If a public health emergency simultaneously affects more than one state, nothing in this Section shall be construed to allow the public health authority to obtain anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies for the primary purpose of hoarding such items or preventing their fair and equitable distribution among affected states.

*Legislative History.* In Section 505, Subsection (a) was adapted from N.H. REV. STAT. ANN. § 141-C-17 (1996). Subsection (b) was adapted from CONN. GEN. STAT. ANN. § 42-231 (West 1958).



**Section 56 Compensation.** The State shall pay just compensation to the owner of any facilities or materials that are lawfully taken or appropriated by a public health authority for its temporary or permanent use under this Article according to the procedures and standards set forth in Section 805 of this Act. Compensation shall not be provided for facilities or materials that are closed, evacuated, decontaminated, or destroyed when there is reasonable cause to believe that they may endanger the public health pursuant to Section 501.

**Section 57 Destruction of property.** To the extent practicable consistent with the protection of public health, prior to the destruction of any property under this Article, the public health authority shall institute appropriate civil proceedings against the property to be destroyed in accordance with the existing laws and rules of the courts of this State or any such rules that may be developed by the courts for use during a state of public health emergency. Any property acquired by the public health authority through such proceedings shall, after entry of the decree, be disposed of by destruction as the court may direct.

## Article VI. Special Powers During a State of Public Health Emergency: Control of Persons

### ARTICLE 6—SPECIAL POWERS DURING A STATE OF PUBLIC HEALTH EMERGENCY: PROTECTION OF PERSONS

**Section 61 Protection of persons.** During a state of public health emergency, the public health authority shall use every available means to prevent the transmission of infectious disease and to ensure that all cases of contagious disease are subject to proper control and treatment.

*Legislative History.* In Section 601, the text immediately following the heading “Protection of individuals” was adapted from CAL. HEALTH & SAFETY CODE § 120575 (West 1996).

#### 10. To implement new laws on seizure and/or compensation for property during a public health emergency, would the state need to designate new funding?

Yes

No

#### Discussion

This section has been informally termed the “takings” section of the model act, and likely it is the most controversial. Most states already have statutes regarding access to and control of property. States that are considering the model act will want to review their takings laws to determine whether those statutes should and can be used in a public health emergency.

Many states already have either statutes or regulations that address the safe disposal of infectious waste. What may constitute “safe disposal” may change over time—such organisms like prions (the infectious protein that causes “mad cow disease”) require a significantly more stringent method of disposal. Therefore, states may want to allow some flexibility in the law or regulation to allow for enhanced methods of safe disposal of infectious waste.

As with infectious waste, statutes or regulations on safe disposal of bodies may require some flexibility. States may need to consider some of the religious implications of this section. For example, if a person’s religious beliefs do not allow for cremation (the most likely method of safe disposal), how does the state authority allow for this belief? What alternative but safe method of disposal will the public health authority provide so that a person’s religious beliefs will not be violated?

With recent investigations in Georgia of a crematorium violating laws on care and handling of dead bodies, states may want to look at their agencies’ ability to perform annual reviews of funeral homes and crematoriums to ensure public safety. Improper treatment of the bodies of those that died of a disease such as smallpox could continue the spread of the disease to others.

Control of health care supplies again falls under state takings laws, as does compensation and destruction of property. States will need to determine whether a fiscal note and corresponding appropriation will be required for these sections.

#### Checklist Questions for Section VI

1. Does the designated authority (either the public health authority or other state agency) have the ability to temporarily detain people who are at potential risk of exposure during the initial investigation of a public health emergency?

Yes

No

**Section 62 Medical examination and testing.** During a state of public health emergency the public health authority may perform physical examinations and/or tests as necessary for the diagnosis or treatment of individuals.

- (1) Medical examinations or tests may be performed by any qualified person authorized to do so by the public health authority.
- (2) Medical examinations or tests must not be such as are reasonably likely to lead to serious harm to the affected individual.
- (3) The public health authority may isolate or quarantine, pursuant to Section 604, any person whose refusal of medical examination or testing results in uncertainty regarding whether he or she has been exposed to or is infected with a contagious or possibly contagious disease or otherwise poses a danger to public health.

*Legislative History.* Section 602 was adapted from CAL. HEALTH & SAFETY CODE § 120580 (West 1996 & Supp. 2001); CAL. HEALTH & SAFETY CODE § 120540 (West 1996); N.Y. COMP. CODES R. & REGS. tit. 10, § 2.5 (LEXIS through Oct. 12, 2001).

**Section 63 Vaccination and treatment.** During a state of public health emergency the public health authority may exercise the following emergency powers over persons as necessary to address the public health emergency—

- (1) **Vaccination.** To vaccinate persons as protection against infectious disease and to prevent the spread of contagious or possibly contagious disease.
  - (1) Vaccination may be performed by any qualified person authorized to do so by the public health authority.
  - (2) A vaccine to be administered must not be such as is reasonably likely to lead to serious harm to the affected individual.
  - (3) To prevent the spread of contagious or possibly contagious disease the public health authority may isolate or quarantine, pursuant to Section 604, persons who are unable or unwilling for reasons of health, religion, or conscience to undergo vaccination pursuant to this Section.
- (2) **Treatment.** To treat persons exposed to or infected with disease.
  - (1) Treatment may be administered by any qualified person authorized to do so by the public health authority.
  - (2) Treatment must not be such as is reasonably likely to lead to serious harm to the affected individual.
  - (3) To prevent the spread of contagious or possibly contagious disease the public health authority may isolate or quarantine, pursuant to Section 604, persons who are unable or unwilling for reasons of health, religion, or conscience to undergo treatment pursuant to this Section.

*Legislative History.* Section 603 was adapted from CAL. HEALTH & SAFETY CODE §§ 120175, 120575, 120605 (West 1996); CAL. HEALTH & SAFETY CODE § 120580 (West 1996 & Supp. 2001).

**Section 64 Isolation and quarantine.**

- (1) **Authorization.** During the public health emergency, the public health authority may isolate (consistent with the definition of “isolation” in Section 103(h)) or quarantine (consistent with

2. Does the designated authority have the ability to perform physical examination or medical tests on those people who are potentially exposed during a public health emergency?

Yes No

3. Does the potentially exposed person have the right to refuse examination or testing, with certain guarantees or agreements?

Yes No

4. Does the designated authority have the ability to provide treatment or vaccination against the suspected biological agent?

Yes No

5. Does the potentially exposed person have the right to refuse treatment or vaccination, with certain guarantees or agreements?

Yes No

6. Does current state law on quarantine cover all potential biological agents, and allow for new ones? (Biological agents include smallpox, tularemia, anthrax, botulism,



- the definition of quarantine in Section 103(o)) an individual or groups of individuals. This includes individuals or groups who have not been vaccinated, treated, tested, or examined pursuant to Sections 602 and 603. The public health authority may also establish and maintain places of isolation and quarantine, and set rules and make orders. Failure to obey these rules, orders, or provisions shall constitute a misdemeanor.
- (2) **Conditions and principles.** The public health authority shall adhere to the following conditions and principles when isolating or quarantining individuals or groups of individuals:
- (1) Isolation and quarantine must be by the least restrictive means necessary to prevent the spread of a contagious or possibly contagious disease to others and may include, but are not limited to, confinement to private homes or other private and public premises.
  - (2) Isolated individuals must be confined separately from quarantined individuals.
  - (3) The health status of isolated and quarantined individuals must be monitored regularly to determine if they require isolation or quarantine.
  - (4) If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a contagious or possibly contagious disease he or she must promptly be removed to isolation.
  - (5) Isolated and quarantined individuals must be immediately released when they pose no substantial risk of transmitting a contagious or possibly contagious disease to others.
  - (6) The needs of persons isolated and quarantined shall be addressed in a systematic and competent fashion, including, but not limited to, providing adequate food, clothing, shelter, means of communication with those in isolation or quarantine and outside these settings, medication, and competent medical care.
  - (7) Premises used for isolation and quarantine shall be maintained in a safe and hygienic manner and be designed to minimize the likelihood of further transmission of infection or other harms to persons isolated and quarantined.
  - (8) To the extent possible, cultural and religious beliefs should be considered in addressing the needs of individuals, and establishing and maintaining isolation and quarantine premises.
- (3) **Cooperation.** Persons subject to isolation or quarantine shall obey the public health authority's rules and orders; and shall not go beyond the isolation or quarantine premises. Failure to obey these provisions shall constitute a misdemeanor.
- (4) **Entry into isolation or quarantine premises.**
- (1) **Authorized entry.** The public health authority may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.
  - (2) **Unauthorized entry.** No person, other than a person authorized by the public health authority, shall enter isolation or quarantine premises. Failure to obey this provision shall constitute a misdemeanor.
  - (3) **Potential isolation or quarantine.** Any person entering

influenza, prion diseases like "mad cow" disease, or parts of biological organisms that could be used as a weapon or could cause widespread disease.)

Yes

No

7. Does current quarantine law allow for various levels of containment? Examples would be the quarantine of those who may have been exposed but do not have symptoms and isolation from the general population of those who have active disease.

Yes

No

8. Does current quarantine law allow for judicial review of the exposed or ill person's confinement?

Yes

No

an isolation or quarantine premises with or without authorization of the public health authority may be isolated or quarantined pursuant to Section 604(a).

**Section 65 Procedures for isolation and quarantine.** During a public health emergency, the isolation and quarantine of an individual or groups of individuals shall be undertaken in accordance with the following procedures.

- (1) **Temporary isolation and quarantine without notice.**
  - (1) **Authorization.** The public health authority may temporarily isolate or quarantine an individual or groups of individuals through a written directive if delay in imposing the isolation or quarantine would significantly jeopardize the public health authority's ability to prevent or limit the transmission of a contagious or possibly contagious disease to others.
  - (2) **Content of directive.** The written directive shall specify the following: (i) the identity of the individual(s) or groups of individuals subject to isolation or quarantine; (ii) the premises subject to isolation or quarantine; (iii) the date and time at which isolation or quarantine commences; (iv) the suspected contagious disease if known; and (v) a copy of Article 6 and relevant definitions of this Act.
  - (3) **Copies.** A copy of the written directive shall be given to the individual to be isolated or quarantined or, if the order applies to a group of individuals and it is impractical to provide individual copies, it may be posted in a conspicuous place in the isolation or quarantine premises.
  - (4) **Petition for continued isolation or quarantine.** Within ten (10) days after issuing the written directive, the public health authority shall file a petition pursuant to Section 605(b) for a court order authorizing the continued isolation or quarantine of the isolated or quarantined individual or groups of individuals.
- (2) **Isolation or quarantine with notice.**
  - (1) **Authorization.** The public health authority may make a written petition to the trial court for an order authorizing the isolation or quarantine of an individual or groups of individuals.
  - (2) **Content of petition.** A petition under subsection (b)(1) shall specify the following: (i) the identity of the individual(s) or groups of individuals subject to isolation or quarantine; (ii) the premises subject to isolation or quarantine; (iii) the date and time at which isolation or quarantine commences; (iv) the suspected contagious disease if known; (v) a statement of compliance with the conditions and principles for isolation and quarantine of Section 604(b); and (vi) a statement of the basis upon which isolation or quarantine is justified in compliance with this Article. The petition shall be accompanied by the sworn affidavit of the public health authority attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.
  - (3) **Notice.** Notice to the individuals or groups of individu-

als identified in the petition shall be accomplished within twenty-four (24) hours in accordance with the rules of civil procedure.

- (4) **Hearing.** A hearing must be held on any petition filed pursuant to this subsection within five (5) days of filing of the petition. In extraordinary circumstances and for good cause shown the public health authority may apply to continue the hearing date on a petition filed pursuant to this Section for up to ten (10) days, which continuance the court may grant in its discretion giving due regard to the rights of the affected individuals, the protection of the public's health, the severity of the emergency and the availability of necessary witnesses and evidence.
- (1) (5) **Order.** The court shall grant the petition if, by a preponderance of the evidence, isolation or quarantine is shown to be reasonably necessary to prevent or limit the transmission of a contagious or possibly contagious disease to others.
  - (1) An order authorizing isolation or quarantine may do so for a period not to exceed thirty (30) days.
  - (2) The order shall (a) identify the isolated or quarantined individuals or groups of individuals by name or shared or similar characteristics or circumstances; (b) specify factual findings warranting isolation or quarantine pursuant to this Act; (c) include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this Act; and (d) served on affected individuals or groups of individuals in accordance with the rules of civil procedure.
- (6) **Continuances.** Prior to the expiration of an order issued pursuant to Section 605(b)(5), the public health authority may move to continue isolation or quarantine for additional periods not to exceed thirty (30) days each. The court shall consider the motion in accordance with standards set forth in Section 605(b)(5).
- (3) **Relief from isolation and quarantine.**
  - (1) **Release.** An individual or group of individuals isolated or quarantined pursuant to this Act may apply to the trial court for an order to show cause why the individual or group of individuals should not be released. The court shall rule on the application to show cause within forty-eight (48) hours of its filing. If the court grants the application, the court shall schedule a hearing on the order to show cause within twenty-four (24) hours from issuance of the order to show cause. The issuance of an order to show cause shall not stay or enjoin an isolation or quarantine order.
  - (2) **Remedies for breach of conditions.** An individual or groups of individuals isolated or quarantined pursuant to this Act may request a hearing in the trial court for remedies regarding breaches to the conditions of isolation or quarantine. A request for a hearing shall not stay or enjoin an isolation or quarantine order.
    - (1) Upon receipt of a request under this subsection

- alleging extraordinary circumstances justifying the immediate granting of relief, the court shall fix a date for hearing on the matters alleged not more than twenty-four (24) hours from receipt of the request.
- (2) Otherwise, upon receipt of a request under this subsection the court shall fix a date for hearing on the matters alleged within five (5) days from receipt of the request.
- (1) (3) **Extensions.** In any proceedings brought for relief under this subsection, in extraordinary circumstances and for good cause shown the public health authority may move the court to extend the time for a hearing, which extension the court in its discretion may grant giving due regard to the rights of the affected individuals, the protection of the public's health, the severity of the emergency and the availability of necessary witnesses and evidence.
- (4) **Proceedings.** A record of the proceedings pursuant to this Section shall be made and retained. In the event that, given a state of public health emergency, parties can not personally appear before the court, proceedings may be conducted by their authorized representatives and be held via any means that allows all parties to fully participate.
- (5) **Court to appoint counsel and consolidate claims.**
- (1) **Appointment.** The court shall appoint counsel at state expense to represent individuals or groups of individuals who are or who are about to be isolated or quarantined pursuant to the provisions of this Act and who are not otherwise represented by counsel. Appointments shall be made in accordance with the procedures to be specified in the Public Health Emergency Plan and shall last throughout the duration of the isolation or quarantine of the individual or groups of individuals. The public health authority must provide adequate means of communication between such individuals or groups and their counsel.
- (2) **Consolidation.** In any proceedings brought pursuant to this Section, to promote the fair and efficient operation of justice and having given due regard to the rights of the affected individuals, the protection of the public's health, the severity of the emergency and the availability of necessary witnesses and evidence, the court may order the consolidation of individual claims into group or claims where:
- (1) the number of individuals involved or to be affected is so large as to render individual participation impractical;
  - (2) there are questions of law or fact common to the individual claims or rights to be determined;
  - (3) the group claims or rights to be determined are typical of the affected individuals' claims or rights; and
  - (4) the entire group will be adequately represented in the consolidation.

*Legislative History.* Sections 604 and 605 were adapted from CAL. HEALTH & SAFETY CODE §§ 120130, 120225 (West 1996); N.H. REV. STAT. ANN. § 141-C:11 -14; CONN. GEN. STAT. ANN. § 19a-221 (West 1958).

**Section 66 Collection of laboratory specimens; performance of tests.** The public health authority may, for such period as the state of public health emergency exists, collect specimens and perform tests on living persons as provided in Section 602 and also upon deceased persons and any animal (living or deceased), and acquire any previously collected specimens or test results that are reasonable and necessary to respond to the public health emergency.

- (1) **Marking.** All specimens shall be clearly marked.
- (2) **Contamination.** Specimen collection, handling, storage, and transport to the testing site shall be performed in a manner that will reasonably preclude specimen contamination or adulteration and provide for the safe collection, storage, handling, and transport of such specimen.
- (3) **Chain of custody.** Any person authorized to collect specimens or perform tests shall use chain of custody procedures to ensure proper record keeping, handling, labeling, and identification of specimens to be tested. This requirement applies to all specimens, including specimens collected using on-site testing kits.
- (4) **Criminal investigation.** Recognizing that, during a state of public health emergency, any specimen collected or test performed may be evidence in a criminal investigation, any business, facility, or agency authorized to collect specimens or perform tests shall provide such support as is reasonable and necessary to aid in a relevant criminal investigation.

*Legislative History.* Section 606 was adapted from CAL. BUS. & PROF. CODE § 681 (LEXIS through Aug. 12, 2001); MISS. CODE ANN. § 71-7-9 (2000); GA. CODE ANN. § 34-9-415 (1998 & Supp. 2001); and CAL. PENAL CODE § 13823.11 (LEXIS through Aug. 12, 2001).

**Section 67 Access to and disclosure of protected health information.**

- (1) **Access.** Access to protected health information of persons who have participated in medical testing, treatment, vaccination, isolation, or quarantine programs or efforts by the public health authority during a public health emergency shall be limited to those persons having a legitimate need to acquire or use the information to:
  - (1) provide treatment to the individual who is the subject of the health information,
  - (2) conduct epidemiologic research, or
  - (3) investigate the causes of transmission.
- (2) **Disclosure.** Protected health information held by the public health authority shall not be disclosed to others without individual written, specific informed consent, except for disclosures made:
  - (1) directly to the individual;
  - (2) to the individual's immediate family members or personal representative;
  - (3) to appropriate federal agencies or authorities pursuant to federal law;
  - (4) pursuant to a court order to avert a clear danger to an individual or the public health; or
  - (1) (5) to identify a deceased individual or determine the manner or cause of death.

9. Does current state law on confidentiality of medical records allow for sharing of personal health information among state agencies (i.e., the public health department giving information on a person's exposure to a public health event to those in the office of emergency management or law enforcement)?

Yes

No

*Legislative History.* Section 607 was adapted from LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999.

**Section 68 Licensing and appointment of health personnel.** The public health authority may exercise, for such period as the state of public health emergency exists, the following emergency powers regarding licensing and appointment of health personnel—

- (1) **Health care providers.** To require in-state health care providers to assist in the performance of vaccination, treatment, examination, or testing of any individual as a condition of licensure, authorization, or the ability to continue to function as a health care provider in this State.
- (2) **Health care providers from other jurisdictions.** To appoint and prescribe the duties of such out-of-state emergency health care providers as may be reasonable and necessary to respond to the public health emergency.
  - (1) The appointment of out-of-state emergency health care providers may be for a limited or unlimited time, but shall not exceed the termination of the declaration of a state of public health emergency. The public health authority may terminate the out-of-state appointments at any time or for any reason provided that any such termination will not jeopardize the health, safety, and welfare of the people of this State.
  - (2) The public health authority may waive any or all licensing requirements, permits, or fees required by the State code and applicable orders, rules, or regulations for health care providers from other jurisdictions to practice in this State.
  - (3) Any out-of-state emergency health care provider appointed pursuant to this Section shall not be held liable for any civil damages as a result of medical care or treatment related to the response to the public health emergency unless such damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of the patient.
- (3) **Personnel to perform duties of medical examiner or coroner.** To authorize the medical examiner or coroner to appoint and prescribe the duties of such emergency assistant medical examiners or coroners as may be required for the proper performance of the duties of the office.
  - (1) (1) The appointment of emergency assistant medical examiners or coroners may be for a limited or unlimited time, but shall not exceed the termination of the declaration of a state of public health emergency. The medical examiner or coroner may terminate such emergency appointments at any time or for any reason, provided that any such termination will not impede the performance of the duties of the office.
  - (2) The medical examiner or coroner may waive licensing requirements, permits, or fees required by the State code and applicable orders, rules, or regulations for the performance of these duties.
  - (3) Any emergency assistant medical examiner or coroner appointed pursuant to this Section and acting without

**10. In a public health emergency, does the state have the ability to order health care providers within the state to provide services?**

Yes

No

**11. Does the state have the ability to temporarily use health care providers from outside the state in a public health emergency?**

Yes

No

### Discussion

This section addresses isolation, quarantine, treatment (via drugs or vaccines), testing, access to medical records, and the use of private and out-of-state healthcare personnel. Most states have existing statutes or regulations for all of the above, with the exception of the licensing and appointment of health personnel. This portion of this section also might fall under the “takings” statutes (above), because who pays the salaries of these health professionals is not defined in the model act.

The model act includes language and provisions to guarantee that the individual’s personal freedoms are upheld, allowing judicial review for those would refuse testing, treatment, quarantine, or isolation. Although most current state laws may not allow for such review, this is an area of the model act that has caused considerable controversy. A state that is revising its quarantine laws, no matter how benignly, will likely face close scrutiny by the public and the media.

Some states have changed their current quarantine laws to reflect only control of one or more diseases (some states did this in response to control tuberculosis in recalcitrant patients). This limitation could place the state in a difficult position when a new or variant disease occurs, since the state statute would not recognize it and therefore could not implement legally appropriate control measures. The approach recommended by the model act suggests not limiting the statute by including the names of specific diseases; rather, the act relies on a broad definition of diseases of public health concern.

Currently, there is a shortage of health care professionals (physicians, nurses and aides), so this may be a difficult point in the act as well as a challenge, should a public health emergency occur. Colorado has included language to enlist the help of retired physicians and nurses during a public health emergency.

malice and within the scope of the prescribed duties shall be immune from civil liability in the performance of such duties.

*Legislative History.* Section 608(b) was adapted from FLA. STAT. ANN. § 768.13(2)(b)(1) (West 1997 & Supp. 2001). Subsection (c) was adapted from D.C. CODE ANN. § 2-1605 (2001); KAN. STAT. ANN. § 22a-226(e) (1995); GA. CODE ANN. § 45-16-23 (1990); COLO. REV. STAT. ANN. § 30-10-601 (West 1990).

## Article VII. Public Information Regarding a Public Health Emergency

## ARTICLE 7 PUBLIC INFORMATION REGARDING PUBLIC HEALTH EMERGENCY

**Section 71 Dissemination of information.** The public health authority shall inform the people of the State when a state of public health emergency has been declared or terminated, how to protect themselves during a state of public health emergency, and what actions are being taken to control the emergency.

- (1) **Means of dissemination.** The public health authority shall provide information by all available and reasonable means calculated to bring the information promptly to the attention of the general public.
- (2) **Languages.** If the public health authority has reason to believe there are large numbers of people of the State who lack sufficient skills in English to understand the information, the public health authority shall make reasonable efforts to provide the information in the primary languages of those people as well as in English.
- (3) **Accessibility.** The provision of information shall be made in a manner accessible to individuals with disabilities.

*Legislative History.* In Section 701, the main text following the title “Dissemination of information” is adapted from 6 COLO. CODE REGS. § 1009-5, reg. 1 (WESTLAW through Aug. 2001). Subsection (a) is adapted from 2001 ILL. LAWS 73(3); ALASKA STAT. § 26.23.020, 26.23.200 (Michie 2000). Subsection (b) is adapted from CAL. ELEC. CODE § 14201(c) (West 1996).

**Section 72 Access to mental health support personnel.** During and after the declaration of a state of public health emergency, the public health authority shall provide information about and referrals to mental health support personnel to address psychological responses to the public health emergency.

*Legislative History.* Section 702 is adapted from the *Bioterrorism Readiness Plan: A Template for Healthcare Facilities* (Prepared by APIC Bioterrorism Task Force & CDC Hospital Infections Program Bioterrorism Working Group).

## Checklist Questions for Article VII

1. What agency would be responsible for informing the public about the public health emergency (Office of the Governor, Department of Health, Department of Emergency Management)? \_\_\_\_\_
2. Does the designated authority have the legal responsibility of informing the public about the public health emergency, in both the appropriate language and medium?

YesNo
3. Should the designated authority have the responsibility of providing for public access to mental health professionals in a public health emergency?

YesNo

## Discussion

This section directs the public health authority to communicate the threat of and the appropriate response to a public health emergency to the affected population. It requires that the information be made available in multiple languages and delivered in appropriate mediums, such as television, newspapers or direct communication. It also directs the utilization of mental health professionals to assist with psychological reactions to an emergency.

Both these provisions would be new to most state statutes and regulations. Most states have either statutes or regulations on providing written information in the appropriate language for



receipt of certain vaccines, in addition to similar federal legislation. State offices of emergency management may have some provision for providing citizens with information about coping with an emergency. In these cases, inclusion of public health emergencies would be helpful.

In emergency situations, mental health professionals have been utilized to assist with the emotional response of the public. These professionals also may provide those who relay information about the emergency with insight as to how to decrease panic in the population.

## Article VIII. Miscellaneous

### ARTICLE 8 MISCELLANEOUS

**Section 81 Titles.** For the purposes of this Act, titles and subtitles of Articles, Sections, and Subsections are instructive, but not binding.

**Section 82 Rules and regulations.** The public health authority and other affected agencies are authorized to promulgate and implement such rules and regulations as are reasonable and necessary to implement and effectuate the provisions of this Act. The public health authority and other affected agencies shall have the power to enforce the provisions of this Act through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by law, but nothing in this Section shall be construed to limit specific enforcement powers enumerated in this Act.

**Section 83 Financing and expenses.**

- (1) **Transfer of funds.** The Governor may transfer from any fund available to the Governor in the State treasury such sums as may be necessary during a state of public health emergency.
- (2) **Repayment.** Monies so transferred shall be repaid to the fund from which they were transferred when monies become available for that purpose, by legislative appropriation or otherwise.
- (3) **Conditions.** A transfer of funds by the Governor under the provisions of this Section may be made only when one or more of the following conditions exist:
  - (1) No appropriation or other authorization is available to meet the public health emergency.
  - (2) An appropriation is insufficient to meet the public health emergency.
  - (3) Federal monies available for such a public health emergency require the use of State or other public monies.
- (4) **Expenses.** All expenses incurred by the State during a state of public health emergency shall be subject to the following limitations:
  - (1) No expense shall be incurred against the monies authorized under this Section, without the general approval of the Governor.
  - (2) The aggregate amount of all expenses incurred pursuant to this Section shall not exceed [state amount] for any fiscal year.
  - (3) Monies authorized for a state of public health emergency in prior fiscal years may be used in subsequent fiscal years only for the public health emergency for which they were authorized. Monies authorized for

### Checklist Questions for Article VIII

The miscellaneous section of the Model Emergency Health Powers Act reiterates certain provisions (on takings), grants immunity from liability to those involved in responding to a public health emergency, and contains other standard language found in most bills and laws. The creation of this category will depend upon how the state's law is developed.



a public health emergency in prior fiscal years, and expended in subsequent fiscal years for the public health emergency for which they were authorized, apply toward the *[state amount]* expense limit for the fiscal year in which they were authorized.

*Legislative History.* In Section 803, Subsections (a) and (b) are adapted from GA. CODE ANN. § 38-3-51 (1995). Subsections (c) and (d) are adapted from ARIZ. REV. STAT. ANN. § 35-192 (West 2000).

#### Section 84 Liability.

- (1) **State immunity.** Neither the State, its political subdivisions, nor, except in cases of gross negligence or willful misconduct, the Governor, the public health authority, or any other State or local official referenced in this Act, is liable for the death of or any injury to persons, or damage to property, as a result of complying with or attempting to comply with this Act or any rule or regulations promulgated pursuant to this Act during a state of public health emergency.
- (2) **Private liability.**
  - (1) During a state of public health emergency, any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons, together with that person's successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege, or other permission, or for negligently causing loss of, or damage to, the property of such person.
  - (2) During a state of public health emergency, any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the State or its political subdivisions under the provisions of this Act shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of gross negligence or willful misconduct.
  - (3) During a state of public health emergency, any private person, firm or corporation and employees and agents of such person, firm or corporation, who renders assistance or advice at the request of the State or its political subdivisions under the provisions of this Act shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of gross negligence or willful misconduct.
  - (4) The immunities provided in this Subsection shall not apply to any private person, firm, or corporation or employees and agents of such person, firm, or corporation whose act or omission caused in whole or in part the public health emergency and who would otherwise be liable therefor.

(1)  
*Legislative History.* Section 804 is adapted from 2001 ILL. LAWS 73(15), (21).

**Section 85 Compensation.**

- (1) **Taking.** Compensation for property shall be made only if private property is lawfully taken or appropriated by a public health authority for its temporary or permanent use during a state of public health emergency declared by the Governor pursuant to this Act.
- (2) **Actions.** Any action against the State with regard to the payment of compensation shall be brought in the courts of this State in accordance with existing court laws and rules, or any such rules that may be developed by the courts for use during a state of public health emergency.
- (3) **Amount.** The amount of compensation shall be calculated in the same manner as compensation due for taking of property pursuant to non-emergency eminent domain procedures, as provided in [State to insert appropriate statutory citation], except that the amount of compensation calculated for items obtained under Section 505 shall be limited to the costs incurred to produce the item.

*Legislative History.* Section 805 is adapted from COLO. REV. STAT. § 24-32-211.5 (LEXIS through 2001 Sess.).

**Section 86 Severability.** The provisions of this Act are severable. If any provision of this Act or its application to any person or circumstances is held invalid in a federal or state court having jurisdiction, the invalidity will not affect other provisions or applications of this Act that can be given effect without the invalid provision or application.

*Legislative History.* Section 806 is adapted from the LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999.

**Section 87 Repeals.** The following acts, laws, or parts thereof, are explicitly repealed with the passage of this Act:

- (1) [To be inserted in each state considering passage of the Act]
- (2) [To be inserted in each state considering passage of the Act]
- (3) [To be inserted in each state considering passage of the Act] . . .

*Legislative History.* Section 807 is adapted from the LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999.

**Section 88 Saving clause.** This Act does not explicitly preempt other laws or regulations that preserve to a greater degree the powers of the Governor or public health authority, provided such laws or regulations are consistent, and do not otherwise restrict or interfere, with the operation or enforcement of the provisions of this Act.

*Legislative History.* Section 808 is adapted from the LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999.

**Section 89 Conflicting laws.**

- (1) **Federal supremacy.** This Act does not restrict any person from complying with federal law or regulations.
- (2) **Prior conflicting acts.** In the event of a conflict between this Act and other State or local

laws or regulations concerning public health powers, the provisions of this Act apply.

*Legislative History.* Section 809 is adapted from the LAWRENCE O. GOSTIN AND JAMES G. HODGE, JR., THE MODEL STATE PUBLIC HEALTH PRIVACY ACT OF 1999.

**Section 810 Effective date.** The provisions of this Act shall take effect upon signature of the Governor. [*State to insert language appropriate to its legislative process.*]

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## Appendix B. State Legislative Activity 2002

State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
Alabama	H 1	Control of pharmaceutical shortages.	Introduced, Jan. 8, 2002
Arizona	S 1400	<ul style="list-style-type: none"> <li>• Issuance of an Enhanced Surveillance Advisory</li> <li>• Patient Tracking</li> <li>• Laboratory Testing Requirements</li> <li>• Isolation and Quarantine Requirements</li> <li>• Due Process of Isolation and Quarantine</li> <li>• Public Health Authority Jurisdiction</li> </ul>	Rereferred to House Committee, April 3, 2002
	H 2044	<ul style="list-style-type: none"> <li>• Quarantine and Sanitary Measures to Prevent Contagion</li> <li>• Enhanced Surveillance Advisories and Public Health Emergencies</li> <li>• Increased Reporting during Enhanced Surveillance Advisory</li> <li>• Patient Tracking during Enhanced Surveillance Advisory</li> <li>• Laboratory Testing during Enhanced Surveillance Advisory</li> <li>• Public Health Authority during State of Emergency or State of War</li> <li>• Isolation and Quarantine during State of Emergency or State of War</li> <li>• Due Process for Isolation and Quarantine during State of Emergency or State of War</li> </ul>	Signed by governor, May 23, 2002; 2002 Ariz. Sess. Laws, Chap. #303
California	AB 1763	<p>“Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Disease Surveillance</li> <li>• Reporting Requirements</li> <li>• Information Dissemination</li> <li>• Control of Facilities</li> <li>• Treatment of Persons</li> <li>• Isolation and Quarantine</li> <li>• Collection of Specimens and Laboratory Testing</li> </ul>	In Assembly Committee on Appropriations: Heard, remains in committee, May 22, 2002
	SB 1298	This bill would declare the intent of the Legislature to identify federal and state funds that shall be used for purposes of building the capacities of local health departments to respond to and prepare for public health emergencies.	Passed Senate, May 20, 2002
	SB 1260	This bill would require the Children’s Environmental Health Center within the Environmental Protection Agency to collect information on how to prepare for a biological or chemical terrorist attack and to take preparatory steps to ensure that children receive health care tailored to their unique health needs in the event of such an attack. It also requires the center to disseminate the collected information to health providers, including hospitals, hospital pediatric units, schools and others.	In Senate. Read second time and amended. Rereferred to Committee on Appropriations, May 7, 2002
Colorado	S185	Empowers a Chief Medical Health Officer to conduct screening programs of populations who are at increased risk of developing tuberculosis or having latent tuberculosis infection, as defined by the Centers for Disease Control and Prevention (CDC), and offer treatment as appropriate. The screening programs will not be implemented without the	To governor, May 21, 2002

Appendix B. State Legislative Activity 2002 (continued)			
State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
Colorado (continued)		approval of the State Chief Medical Health Officer. Also empowers the Chief Medical Health Officer to issue a quarantine or isolation order to the patient with multidrug-resistant tuberculosis if the patient has ceased taking prescribed medications against medical advice.	
Connecticut	H 5286	<ul style="list-style-type: none"> <li>• Control of Human Remains</li> <li>• Defines the Term Public Health Emergency</li> <li>• State Department Collaboration Directives</li> <li>• Confinement of Persons</li> <li>• Vaccination of Persons</li> </ul>	Passed House to Senate, May 3, 2002
	S 359	Allows the Department of Public Health to procure and maintain a stockpile of supplies of potassium iodide tablets for use in the emergency planning surrounding the Millstone 3 nuclear power generating facility zone established by the Nuclear Regulatory Commission.	Enrolled, Special Act No. 02-06
	H 5424	Inserts a new section in the statutes that requires that the commissioners of Public Safety, Public Health, Children and Families, Mental Health and Addiction Services and Education jointly develop a plan that includes the special needs of children exposed to terrorism, including bioterrorism, and to strengthen emergency and rescue services for children to protect them from biological, chemical and toxic agents.	Enrolled, Special Act No. 02-08
Delaware	H 377	<p>“Delaware Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Duties of Health Care Providers to Report Medical Conditions</li> <li>• Reports of Prescription-Related Events</li> <li>• Reporting Requirements for Veterinarians</li> <li>• Disease Surveillance Requirements</li> <li>• Governor’s Emergency Powers in a Public Health Emergency</li> <li>• Quarantine and Isolation</li> <li>• Protection of Personal Health Information</li> <li>• Public Health Emergency Plan</li> </ul>	Passed House, May 2, 2002; to Senate Health and Social Services Committee, May 7, 2002
Florida	H 1579	<ul style="list-style-type: none"> <li>• Declaration of Public Health Emergency</li> <li>• Control of Prescriptive Drugs</li> <li>• Control of Licensed Health Professionals</li> <li>• Examination and Treatment of Persons</li> <li>• Quarantine Authority</li> <li>• Public Health Emergency Volunteer Staff</li> </ul>	Died in Committee, March 22, 2002
	SB 1264	Revises the rule-making authority of the Department of Health to impose a quarantine. Addresses the declaration of a public health emergency.	Died on Calendar, March 22, 2002

**Appendix B. State Legislative Activity 2002 (continued)**

State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
Florida (continued)	H 507	<ul style="list-style-type: none"> <li>• Authority to direct state employed pharmacist compound bulk prescription drugs for treatment or prophylaxis.</li> <li>• Health care provider education requirements for treatment of conditions caused by NBC agents.</li> <li>• Practitioner registry.</li> <li>• Conditions for professional licensure renewal.</li> </ul>	Died in messages, March 22, 2002
	S 1262	Issuance of a Public Health Advisory and grants the State Health Officer the authority to: <ul style="list-style-type: none"> <li>• Direct Pharmaceutical Agent Distribution</li> <li>• Reactivate Health Professional Licensure in and Emergency</li> <li>• Order Compulsory Vaccination, Examination and Treatment</li> </ul>	Signed by governor, May 23, 2002; 2002 Fla. Laws, Chap. #269
	H 27 e	Funds for Bioterrorism Research From non-recurring Operations and Maintenance Trust Funds in Specific Appropriation 547, \$1,000,000 is provided to the Institute for Infectious Disease at the University of South Florida. These funds will be used with federal funds for bioterrorism research to develop infectious disease public policy and provide first-response training and education for biological defense.	To governor, May 28, 2002
Georgia	S 385	<ul style="list-style-type: none"> <li>• Reporting Requirements</li> <li>• Disease Surveillance</li> <li>• Compulsory Vaccination</li> <li>• Isolation and Segregation</li> <li>• Reporting and Identification of Deceased Persons</li> <li>• Coordination of Public Health Emergency</li> </ul>	Enacted, May 16, 2002; 2002 Ga. Laws, p. # 973
Hawaii	S 3053  H 2795 companion to S 3053	Establishes a public health nursing branch program to be administered by the Department of Health and to mobilize the department's nursing resources and respond to catastrophic and traumatic emergency events, including natural disasters (for example, tsunami, hurricane, flooding) and biologic outbreak or exposure.	To governor, May 7, 2002  Referred to House Committee on Labor and Public Employment, Jan. 30, 2002
	S 2779	Grants authority to DOH to establish public-private sector health care workforce collaborative agreements.	Passed Senate, March 5, 2002
	H 2521	Authorizes the Public Health Authority to: <ul style="list-style-type: none"> <li>• Enter into public-sector private-sector collaborative agreements for provision of epidemic care.</li> </ul>	To governor, May 8, 2002



**Appendix B. State Legislative Activity 2002 (continued)**

State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
Illinois	H 3809  S 1529 companion to H 3809	<p>“Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Planning for a Public Health Emergency</li> <li>• Measures to Detect and Track Public Health Emergencies</li> <li>• Declaring State of Public Health Emergency</li> <li>• Special Powers During State of Public Health Emergency: Management of Property</li> <li>• Safe Disposal of Infectious Waste and Human Remains</li> <li>• Control of Health Supplies</li> <li>• Special Powers during a State of Public Health Emergency; Protection of Persons</li> <li>• Collection of Laboratory Specimens</li> <li>• Disclosure of Protected Health Information</li> <li>• Powers Regarding Licensing and Appointment of Health Personnel</li> <li>• Public Information Regarding Public Health Emergencies</li> </ul>	<p>Rereferred to House Committee on Rules, April 5, 2002</p> <p>To Senate Committee on Rules, Nov. 13, 2001</p>
	S 1717	Amends existing law by requiring the director of Public Health to appoint a person with expertise in bioterrorism issues to the Immunization Advisory Committee. The function of the committee is to advise the director on immunization issues.	To governor, May 16, 2002
	S 2207	Requires that the Department of Public Health conduct three public hearings, geographically distributed throughout the state, before any regulation or any amendment to a regulation is adopted if it pertains to a new vaccine requirement or makes substantial changes in the language of the religious or medical objection exemptions to immunization.	Rereferred to Senate Committee on Rules, March 8, 2002
Kansas	EO 10	An executive order that establishes the Kansas Bioterrorism Coordinating Council and the Kansas Hospital Preparedness Planning Committee.	Introduced, March 29, 2002
Kentucky	H 370	<p>“Model State Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Public Health Emergency Planning Commission</li> <li>• Measures to Detect and Track Public Health Emergencies</li> <li>• Sharing of Information</li> <li>• Declaring a State of Public Health Emergency</li> <li>• Public Health Personnel Identification</li> <li>• Special Powers During a State of Public Health Emergency: Management of Property</li> <li>• Special Powers During a State of Public Health Emergency: Protection of Persons</li> <li>• Access to Protected Health Information</li> <li>• Authority over Health Professionals</li> <li>• Public Information Regarding Public Health Emergency</li> <li>• Information Dissemination</li> </ul>	To House Committee on State Government, Jan. 17, 2002
	H 88	<ul style="list-style-type: none"> <li>• Powers of the Division of Emergency Management.</li> <li>• Assessment of Public Health Preparedness</li> <li>• Departmental Collaboration</li> </ul>	Recommended to Senate Committee on Appropriations and Revenue, April 2, 2002

**Appendix B. State Legislative Activity 2002 (continued)**

State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
Kentucky (continued)	H 108	Kentucky Core Public Health Act <ul style="list-style-type: none"> <li>• Authorizes the Department for Public Health to develop and operate all programs for assessing the health status of the population; for the promotion of health; and for the prevention of disease, injury, disability and premature death.</li> </ul>	Passed House, Feb. 5, 2002
Louisiana	H 91a	Immunization Registry Adds new language to existing law that provides that the general consent for treatment and release of information to other providers or to the Office of Public Health will be considered parental consent for sharing historical, current, and future immunization information.  Provides that, in the event of a public health emergency as declared by the State Health Officer, including a natural disaster, bioterrorist attack, epidemic, or other event affecting the public health, the requirement to obtain consent for placement on a registry will be waived for mass immunizations performed in response to the declaration	Enacted, April 18, 2002; 2002 La. Acts, P.A. #90
Maine	LD 2164	Establishes procedures for: <ul style="list-style-type: none"> <li>• Disposition of Human Remains</li> <li>• Declaration of a Public Health Emergency</li> </ul> Establishes emergency health powers allowing the department to have immediate access to any health information from a medical provider related to a notifiable disease or a communicable disease not subject to departmental reporting requirements and that the department has determined a health risk; take any person into temporary custody; and order specific emergency care, vaccination, treatment or evaluation of that person.	Enacted, April 11, 2002; 2002 Me. Laws, Chap. #694
Maryland	S 519	Health Facility Decontamination Capability	To governor, May 16, 2002
	H 296	Catastrophic Health Emergencies <ul style="list-style-type: none"> <li>• Declaration and Response</li> <li>• Disease Surveillance Program</li> <li>• Health Care Facilities Contingency Plans</li> <li>• Health Care Provider Reporting Requirements</li> <li>• Investigation and Response</li> <li>• Department Collaboration Directives</li> </ul>	Vetoed by governor-Duplicative, May 15, 2002
	H 303	Provides authority to the secretary of Health to adopt rules and regulations necessary to prevent the introduction and spread of infectious or contagious disease in the state. Also requires the secretary to investigate all suspected cases as deemed appropriate and take action as required.	Enacted, April 9, 2002; 2002 Md. Laws, Chap. #5
	H 361	Biological Agents Registry Program	Enacted, May 6, 2002; 2002 Md. Laws, Chap. #361

Appendix B. State Legislative Activity 2002 (continued)			
State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
Minnesota	H 2619	<p>“State Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Reporting Qualifying Illnesses and Health Conditions</li> <li>• Identification and Disease Surveillance</li> <li>• Information Sharing</li> <li>• Standards for Declaration of State of Public Health Emergency</li> <li>• Identification of Public Health Personnel</li> <li>• Control of Facilities and Property</li> <li>• Powers regarding Disposal of Infectious Waste and Human Remains</li> <li>• Control of Health Facilities</li> <li>• Control of Persons During a Public Health Emergency</li> <li>• Quarantine Authority</li> <li>• Required Vaccination and Treatment</li> <li>• Collection of Laboratory Specimens; Performance of Tests</li> <li>• Access and Disclosure of Patient Health Information</li> <li>• Designation, Licensing and Appointment of Health Personnel</li> <li>• Liability Exemptions</li> <li>• Dissemination of Information Regarding Public Health Emergency</li> <li>• Access to Mental Health Personnel</li> <li>• Planning for Public Health Emergency</li> </ul>	To House Committee on Health and Human Services Policy, Jan. 29, 2002
	H 3031	<p>“Minnesota Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Disposition of Human Remains</li> <li>• Isolation and Quarantine</li> <li>• Study of Emergency Health Powers Issues</li> </ul>	Enacted, May 22, 2002; 2002 Minn. Laws, Chap. #402
	S 2669	“Minnesota Emergency Health Powers Act” contains similar provisions as in House Bill 2619	Indefinitely postponed, March 26, 2002; see H 3031
	S 2683	<p>Provides that the commissioner of Public Safety may award grants to state agencies and local and tribal units of government for costs, including reimbursement of costs, related to emergency preparedness training for:</p> <ul style="list-style-type: none"> <li>• law enforcement,</li> <li>• fire,</li> <li>• ambulance,</li> <li>• medical personnel, and</li> <li>• agencies.</li> </ul>	<p>From Senate Committee on Finance; Do pass as amended, March 21, 2002</p> <p>Vetoed by governor-Duplicative, May 15, 2002</p>
	H 2622	The Minnesota Anti-Terrorism Act of 2002	To Conference Committee, March 22, 2002
	H 2846	Biological Agents Registry	Rereferred to House Committee on Crime Prevention, Feb. 11, 2002
	H 2848	Biological Agents Registry	Rereferred to House Committee on Crime Prevention, Feb. 11, 2002

Appendix B. State Legislative Activity 2002 (continued)			
State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
Mississippi	S 2737	<ul style="list-style-type: none"> <li>• Release of Medical Information</li> <li>• Reporting Requirements</li> <li>• Penalties for Violation of Law</li> <li>• Special Public Health Emergency Powers</li> <li>• Prescription-related Events</li> </ul>	Died in Committee, March 5, 2002
Missouri	S 712	<p>“Missouri State Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Reportable Diseases</li> <li>• Prescriptive-related Events</li> <li>• Disease Surveillance</li> <li>• Exchange of Information</li> <li>• Declaration of a Public Health Emergency</li> <li>• Special Public Health Authority Emergency Powers</li> <li>• Quarantine Authority</li> <li>• Powers Over Persons</li> <li>• Chain-of-Custody for Laboratory Specimens</li> <li>• Access to Health Information</li> <li>• Licensing of Health Personnel</li> <li>• Referrals to Mental Health Support</li> <li>• Public Health Emergency Planning Commission</li> </ul>	To governor, May 28, 2002
	S 1000	<ul style="list-style-type: none"> <li>• Reporting Requirements</li> <li>• Out-of-State Laboratories</li> <li>• Penalties for Violations of Law</li> <li>• Mental Health Support</li> </ul>	To Senate Committee on Public Health and Welfare, Jan. 28, 2002
	S 983	Establishes a joint committee of the General Assembly to be known as the “Joint Committee on Terrorism, Bioterrorism, and Homeland Security.”	Introduced, Jan. 21, 2002
	H 1947	Requires registration of biological agents with the Department of Health and Senior Services by Jan. 1, 2003.	From House Committee on Children, Families and Health; Voted, do pass as substituted, April 18, 2002
Nebraska	L 1224	<p>“Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Homeland Security Policy Commission</li> <li>• Public Health Emergency Plan</li> <li>• Disease Surveillance</li> <li>• Information Sharing</li> <li>• Declaration of a State of Emergency</li> <li>• Public Health Authority Powers</li> <li>• Public Health Personnel Identification</li> <li>• Public Notification</li> </ul>	Postponed indefinitely, April 19, 2002
New Hampshire	H 1478-FN-A	<p>Public Health Emergency Preparation and Response Act</p> <ul style="list-style-type: none"> <li>• Investigation and Examination Authority and Requirements</li> <li>• Isolation and Quarantine Procedures</li> <li>• Authority to Access and Disclosure to Patient Records</li> <li>• Authority to Dispose of Human Remains</li> <li>• Authority to Control Pharmaceutical Agents</li> <li>• Reporting Requirements</li> <li>• Authority to Control Facilities</li> </ul>	Enacted, May 2, 2002; 2002 N.H. Laws, Chap. #258

**Appendix B. State Legislative Activity 2002 (continued)**

State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
New Jersey	A 1773	<ul style="list-style-type: none"> <li>Public Health Emergency Planning Commission</li> <li>Public Health Emergency Response Plan</li> </ul>	To Assembly Committee on Health and Human Services, Feb. 11, 2002
	A 4080	"Public Health Preparedness Act" <ul style="list-style-type: none"> <li>Appointment of Lead Local Health Agency</li> </ul>	To Assembly Committee on Appropriations, Dec. 20, 2001
	S 1042	Establishes the Public Health Emergency Planning Commission in the Department of Health and Senior Services and requires the development of a public health emergency response plan.	To Senate Committee on Health, Human Services and Senior Citizens, Feb. 21, 2002
	A 1886	This bill requires the commissioner of Health and Senior Services to conduct a study of the feasibility of establishing a state pharmaceutical stockpile in preparation for a public health emergency resulting from an act of bioterrorism or the appearance of a novel or previously controlled or eradicated infectious agent or biological toxin, or widespread exposure to an infectious or toxic agent, which poses a significant risk of substantial harm to a large number of people in the state.	To Assembly Committee on Health and Human Services, Feb. 21, 2002
	A 1955	Public Health Protection Services—Appropriates \$27,242,400 for expansion of bioterrorism response capabilities.	Enacted, April 24, 2002; 2002 N.J. Laws, Chap. #18
	A 2188	This bill provides that, during a public health emergency, the commissioner of Health and Senior Services will be authorized to take actions as the commissioner determines necessary to ensure an adequate supply of medicines and other pharmaceutical supplies at acute care hospitals and nursing homes throughout the State. The bill would permit the commissioner to direct the reallocation of supplies among acute care hospitals and nursing homes as the commissioner determines necessary to provide for the most effective and efficient means of protecting the public health.	Passed Assembly, May 20, 2002; to Senate Health, Human Services and Senior Citizens Committee, May 30, 2002
	A 1968	Requires registration of biologic agents with the Department of Health and Senior Services.	To Assembly Committee on Homeland Security and State Preparedness, March 4, 2002
	S 1225	Requires registration of biologic agents with the Department of Health and Senior Services.	To Senate Committee on Health, Human Services and Senior Citizens, Feb. 28, 2002
New Mexico	H 195	<ul style="list-style-type: none"> <li>Reporting of Contagious Diseases</li> <li>Detention of Infected Persons</li> </ul>	Enacted, March 5, 2002; 2002 N.M. Laws, Chap. #74

**Appendix B. State Legislative Activity 2002 (continued)**

State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
New York	A 9508	<p>“State Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Reporting</li> <li>• Information Sharing</li> <li>• Tracking</li> <li>• Declaration of Emergency</li> <li>• Coordination</li> <li>• Identification of Public Health Personnel</li> <li>• Access to and Control of Facilities and Property</li> <li>• Safe Disposal of Infectious Waste and Human Remains</li> <li>• Control of Health Supplies</li> <li>• Control of Individuals</li> <li>• Mandatory Medical Examinations</li> <li>• Isolation and Quarantine</li> <li>• Vaccination and Treatment</li> <li>• Collection of Laboratory Specimens</li> <li>• Access and Disclosure of Patient Records</li> <li>• Licensing and Appointment of Department Personnel</li> <li>• Information Dissemination</li> <li>• Planning for Public Health Emergency</li> </ul>	Amended in Assembly Committee on Health, March 5, 2002
	S 5841	“State Emergency Health Powers Act” contains similar provisions as A 9508.	Amended in Senate Committee on Health, March 4, 2002
Oklahoma	S 1659	Establishes the Oklahoma Public Health Emergency Planning Task Force.	In Conference, April 18, 2002
	H 2765	<p>“Catastrophic Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Requires Establishment of Public Health Emergency Planning Commission</li> <li>• Requires Development of a State Plan</li> <li>• Requirements for Reporting of Diseases</li> <li>• Disease Investigation Directives</li> </ul>	Failed, May 23, 2002
	H 2764	<p>Provides the Public Health Authority the Power to:</p> <ul style="list-style-type: none"> <li>• Control Facilities</li> <li>• Coordinate Response Activities</li> <li>• Planning and Execution of Response</li> <li>• Control Disposal of Infectious Waste and Human Remains</li> <li>• Control of Persons with Treatment or Isolation and Quarantine</li> <li>• Control Licensing and Appointment of Health Personnel</li> </ul>	Passed House, March 6, 2002
Pennsylvania	H 2261	<ul style="list-style-type: none"> <li>• Reporting Requirements</li> <li>• Tracking</li> <li>• Information Sharing</li> <li>• Standards for Declaration of a Public Health Emergency</li> <li>• Coordination</li> <li>• Identification of Public Health Personnel</li> <li>• Special Emergency Powers</li> <li>• Isolation and Quarantine</li> <li>• Vaccination and Treatment</li> <li>• Collection of Laboratory Specimens</li> </ul>	To House Committee on Veterans Affairs and Emergency Preparedness, Jan. 2, 2002

Appendix B. State Legislative Activity 2002 (continued)			
State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
Pennsylvania (continued)		<ul style="list-style-type: none"> <li>• Access and Disclosure of Patient Records</li> <li>• Licensing and Appointment of Health Personnel</li> <li>• Access to Mental Health Support Personnel</li> <li>• Public Health Emergency Planning Commission</li> </ul>	
	S 313	Provides a new list of communicable diseases that must be reported.	To Senate Committee on Public Health and Welfare, Feb. 6, 2001
	H 2371	<p>Authority granted to county departments of health, inclusive of:</p> <ul style="list-style-type: none"> <li>• Public Health Emergency Response</li> <li>• Public Health Monitoring</li> <li>• Public Health Assessment</li> <li>• Outlines Grants to County Departments of Health</li> </ul>	Introduced, Feb. 2, 2002
	S 1338	<ul style="list-style-type: none"> <li>• Emergency Health Powers Procedures</li> <li>• Measures to Detect and Track Potential and Existing Threats</li> <li>• Declaration of a State of Emergency</li> <li>• Control of Property and Supplies</li> <li>• Control of Persons</li> <li>• Public Information Dissemination Requirements</li> <li>• Planning Directives</li> </ul>	Introduced, March 11, 2002
	H 2319	Establishes a toll-free telephone hotline that is accessible 24 hours per day and seven days per week for Pennsylvania residents to obtain information about emergencies and safety issues that will include notices related to the Department of Health, weather-related information, state emergency information, and reported terrorism and bioterrorism alerts and instructions. The agency also will provide for a system in which callers may offer feedback on state emergency observations.	To House Committee on Veterans Affairs and Emergency Preparedness, Jan. 30, 2002
	H 2394	Requires the Department of Health to establish public state health centers in the county seats of each county in the Commonwealth to ensure that residents may receive basic health care services provided by those state health centers in effect as of July 1, 1995, including immunizations, sexually transmitted disease testing and counseling, tuberculosis screening, and other services for the prevention and suppression of disease and to assist local public officials in providing information and coordinating the response and services regarding incidents or concerns with bioterrorism.	To House Committee on Health and Human Services, March 8, 2002
	EO7	Mark S. Schweiker, Governor of the Commonwealth of Pennsylvania, directs that all state agencies implement emergency preparedness plans for their internal operations. Requires that the plans include actions that each agency will take to ensure continuity of their essential operations in the event of a short- or long-term emergency. The plans must be consistent with agency responsibilities outlined in	Introduced, March 22, 2002

**Appendix B. State Legislative Activity 2002 (continued)**

State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
Pennsylvania (continued)		the Commonwealth of Pennsylvania Emergency Operations Plan maintained by the Pennsylvania Emergency Management Agency.	
Rhode Island	H 7563	<p>“ Rhode Island Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Reporting</li> <li>• Tracking</li> <li>• Privacy</li> <li>• Declaration of Public Health Emergency</li> <li>• Local Authority</li> <li>• Use of Products</li> <li>• Medical Examinations</li> <li>• Isolation and Quarantine</li> <li>• Vaccination and Treatment</li> <li>• Collection of Specimens</li> <li>• Access and Disclosure of Patient Records</li> <li>• Licensing and Appointment of Health Personnel</li> <li>• Information Dissemination</li> <li>• Public Health Emergency Planning</li> </ul>	To House Committee on Finance, Feb. 5, 2002
	S 2865	This act would establish the state emergency health powers act. This act would provide the Department of Health with certain emergency powers in the event of a health emergency, including, but not limited to, an act of bioterrorism.	To Senate Committee on Health, Education and Welfare, March 7, 2002
	H 6981	Provides that the director must develop and adopt by rule and regulation a plan to protect the public health during a vaccine shortage	Passed House, April 10, 2002
South Dakota	H 1304	<ul style="list-style-type: none"> <li>• Declaration of a Public Health Emergency</li> <li>• Authority and Responsibility</li> <li>• County Boards of Health</li> <li>• Handling of Human Remains</li> </ul>	Signed by governor; 2002 S.D. Session Laws, Chap. #168
	H 1303	<p>Revises the authority of the governor to handle an event of a disaster, war or act of terrorism, adding;</p> <ul style="list-style-type: none"> <li>• Control of Pharmaceuticals and Medical Supplies</li> <li>• Control of Out-of-State Health Care Providers</li> <li>• Control of Human Remains</li> </ul>	Signed by governor; 2002 S.D. Session Laws, Chap. #162
Tennessee	S 2392	<p>“Tennessee Emergency Health Powers Act”</p> <ul style="list-style-type: none"> <li>• Public Health Emergency Planning Commission</li> <li>• Reporting Requirements</li> <li>• Disease Surveillance</li> <li>• Sharing of Information</li> <li>• Declaration of a Public Health Emergency</li> <li>• Public Health Authority Responsibility</li> <li>• Identification of Public Health Personnel</li> <li>• Public Health Authority Powers</li> <li>• Isolation and Quarantine</li> <li>• Protected Health Information</li> <li>• Collection of Laboratory Specimens</li> <li>• Licensing of Health Personnel</li> </ul>	Signed by governor, May 22, 2002; 2002 Tenn. Pub. Act, Chap. #767



Appendix B. State Legislative Activity 2002 (continued)			
State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
Tennessee (continued)	H 2271	“Tennessee Emergency Health Powers Act” contains similar provisions as in S 2392.	Substituted on House floor by S 2392, April 10, 2002
	H 2473	Requires the Division of Laboratories to maintain three Level III laboratories, one in each division of the state. Each laboratory must be capable of analyzing various biological agents, including, but not limited to, bacillus anthracis (anthrax), that could potentially be used in a terrorist attack, as well as performing other duties to assist the Department and Health Professionals in protecting the public health.	In House Committee on Health and Human Resources; Rereferred to Subcommittee on Health, March 27, 2002
Utah	H 231 S2	“Detection of Public Health Emergency Act” <ul style="list-style-type: none"> <li>• Reporting Requirements</li> <li>• Investigation of Suspected Bio-terrorism or Disease</li> <li>• Information Sharing</li> </ul>	Governor signed March 18, 2002; Utah Laws, Chap. #155
Virginia	H 146	Requires registry of microbes and pathogens with the Department of Health.	Enacted, March 6, 2002; 2002 Va. Acts, Chap. #100
	H 664	<ul style="list-style-type: none"> <li>• List of Reportable Diseases</li> <li>• Reports by Physicians and Laboratory Directors</li> <li>• Immunity from Liability</li> <li>• Surveillance and Investigation</li> <li>• Emergency Rules and Regulations</li> </ul>	Enacted, April 8, 2002; 2002 Va. Acts, Chap. #768
Vermont	S 298	Reporting Illnesses Associated with Bioterrorism	Passed House, May 16, 2002
Washington	S 2392	Designates the Department of Health and Human Services as the coordinator of the State Bioterrorism Preparedness and Response Program. Requires the department to prepare a plan for improving current preparedness and response for a bioterrorist event or other public health emergency by July 2, 2002.	From Senate Committee on Health and Long-Term Care: Do pass, March 1, 2002
Wisconsin	A 849 A 850	Public Health Authorities Concerning: <ul style="list-style-type: none"> <li>• Disposal of Human Remains</li> <li>• Control of Pharmaceutical agents and medical supplies</li> <li>• Compulsory Vaccination</li> <li>• Isolation and Quarantine</li> <li>• Reporting of Diseases</li> </ul>	Failure to pass pursuant to Senate Joint Resolution 1  Failure to pass pursuant to Senate Joint Resolution 1
West Virginia	S 208	“West Virginia Bio-terrorism Threat Reduction Act” <ul style="list-style-type: none"> <li>• List of Selected Biological Agents and Toxins to be Published in the State Register</li> <li>• Certification Process for Possession, Use and Transfer of Biologic Agents</li> </ul>	To Senate Committee on Judiciary, Jan. 15, 2002
Wyoming	S 67	<ul style="list-style-type: none"> <li>• Right to Appeal Quarantine</li> <li>• Mandatory Treatment</li> <li>• State Agency Collaboration</li> </ul>	Passed Senate; introduced in House, March 1, 2002

**Appendix B. State Legislative Activity 2002 (continued)**

State/Jurisdiction	Bills Introduced in 2002	Provisions in the Act Address	Status
District of Columbia	B14-0373	The Omnibus Anti-Terrorism Act of 2002 creates new crimes related to acts of terrorism. Title IX, the Public Health Protection Amendment Act, amends the definition of communicable disease, provides the mayor with authority to remove and detain people with communicable disease from the general population, requires medical examinations of all detained people, and authorizes the mayor to issue public health emergency executive orders.	Signed by the mayor, June 3, 2002; 2002 D.C. Stat., Chap. # 14-380

**Source:** National Conference of State Legislatures, Health Policy Tracking Service, 2002.

## APPENDIX C. 17 CRITICAL BENCHMARKS FOR BIOTERRORISM PREPAREDNESS PLANNING

Individual state and city plans are reviewed by the U.S. Department of Health and Human Services based on criteria including 17 critical benchmarks. The critical benchmarks are:

### **I. Public Health Preparedness (Centers for Disease Control)**

1. Designate a senior public health official within the state health department to serve as executive director of the state Bioterrorism Preparedness and Response Program.
2. Establish an advisory committee with members from a variety of health agencies and first responders.
3. Prepare a timeline for the development of a statewide plan for preparedness and response for a bioterrorist event, infectious disease outbreak, or other public health emergency.
4. Prepare a timeline for the assessment of statutes, regulations and ordinances within the state and local public health jurisdictions regarding emergency public health measures.
5. Prepare a timeline for the development of a statewide plan for responding to incidents of bioterrorism.
6. Prepare a timeline for the development of regional plans to respond to bioterrorism.
7. Develop an interim plan to receive and manage items from the National Pharmaceutical Stockpile, including mass distribution of antibiotics, vaccines and medical material.
8. Prepare a timeline for developing a system to receive and evaluate urgent disease reports from all parts of the state (or city) and local public health jurisdictions on a 24-hour per day, seven days per week basis.
9. Assess current epidemiologic capacity and prepare a timeline for providing at least one epidemiologist for each metropolitan area with a population greater than 500,000.
10. Develop a plan to improve working relationships and communication between Level A (clinical) laboratories and Level B/C laboratories, (i.e., Laboratory Response Network laboratories) as well as other public health officials.
11. Prepare a timeline for a plan that ensures that 90 percent of the population is covered by the Health Alert Network (HAN).

12. Prepare a timeline for the development of a communications system that provides a 24/7 flow of critical health information among hospital emergency departments, state and local health officials, and law enforcement officials.
13. Develop an interim plan for risk communication and information dissemination to educate the public regarding exposure risks and effective public response.
14. Prepare a timeline to assess training needs—with special emphasis on emergency department personnel, infectious disease specialists, public health staff, and other health care providers.

## **II. Hospital Preparedness (Health Resources Services Administration)**

15. Designate a coordinator for bioterrorism hospital preparedness planning.
16. Establish a hospital preparedness planning committee to provide guidance, direction and oversight to the state health department in planning for bioterrorism response.
17. Devise a plan for a potential epidemic in each state or region. Recognizing that many of these patients may come from rural areas served by centers in metropolitan areas, planning must include the surrounding counties likely to impact the resources of these cities.

Note: All Health and Human Services press releases, fact sheets and other press materials are available at <http://www.hhs.gov/news>.

**Source:** U.S. Department of Health and Human Services, June 6, 2002.