

(L21, Ch. 405, sec. 11)

A. During a state of emergency or state of war emergency proclaimed by the governor in which there is an occurrence or imminent threat of an illness or health condition that is caused by bioterrorism, an epidemic or pandemic disease or a highly fatal infectious agent or biological toxin and that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability, the department shall coordinate all matters pertaining to the public health emergency response of the state. The department has primary jurisdiction, responsibility and authority for:

1. Planning and executing public health emergency assessment, mitigation, preparedness response and recovery for this state.
2. Coordinating public health emergency response among state, local and tribal authorities.
3. Collaborating with relevant federal government authorities, elected officials of other states, private organizations and private sector companies.
4. Coordinating recovery operations and mitigation initiatives subsequent to public health emergencies.
5. Organizing public information activities regarding state public health emergency response operations.
6. Establishing, in conjunction with applicable professional licensing boards, a process to grant a temporary waiver of the professional licensure requirements necessary to implement any measures required to adequately address the state of emergency or state of war emergency.
7. Granting temporary waivers of health care institution licensure requirements necessary to implement any measures required to adequately address the state of emergency or state of war emergency.

B. In addition to the authority provided in subsection A of this section, during a state of emergency or state of war emergency, the governor, in consultation with the director of the department of health services, may issue orders that:

1. Mandate medical examinations for exposed persons.
2. Ration medicine and vaccines.
3. Provide for transportation of medical support personnel and ill and exposed persons.
4. Provide for procurement of medicines and vaccines.

C. In addition to the authority provided in subsections A and B of this section, during a state of emergency or state of war emergency in which there is an occurrence or the imminent threat of smallpox, plague, viral hemorrhagic fevers or a highly contagious and highly fatal disease with transmission characteristics similar to smallpox, the governor, in consultation with the director of the department of health services, may issue orders that:

1. Mandate treatment or vaccination of persons who are diagnosed with an illness resulting from exposure or who are reasonably believed to have been exposed or who may reasonably be expected to be exposed. A person may refuse a vaccination required by this paragraph based on the person's personal beliefs.

2. Isolate and quarantine persons.

D. Law enforcement officials of this state and the national guard shall enforce orders issued by the governor under this section.

E. Diseases subject to this section do not include acquired immune deficiency syndrome or any other infection caused by the human immunodeficiency virus.

F. If during a state of emergency or state of war emergency the public health is not endangered, this title does not authorize the department or any of its officers or representatives to impose on any person against the person's will any mode of treatment, provided that sanitary or preventive measures and quarantine laws are complied with by the person. This title does not authorize the department or any of its officers or representatives to impose on any person contrary to the person's religious concepts any mode of treatment, provided that sanitary or preventive measures and quarantine laws are complied with by the person.

G. At the governor's direction, the department may use reasonable efforts to assist the persons and institutions affected by the state of emergency or state of war emergency proclaimed pursuant to this section in seeking reimbursement of costs incurred as a result of providing services related to implementing isolation and quarantine under this article to the extent these services are not otherwise subject to reimbursement.

H. This section does not allow the department, any other state agency or a city, town or county to permanently revoke any license held by a business or used to operate a business for not complying with an order issued by the governor pursuant to this section unless the department, other state agency, city, town or county can demonstrate by clear and convincing evidence that the business caused the transmission of the disease that is the subject of the order due to the business's wilful misconduct or gross negligence.

I. Before a state agency, city, town or county suspends or permanently revokes, pursuant to subsection H of this section, a license held by a business or used to operate a business, the state agency, city, town or county shall provide the business with both of the following:

1. A written notice of noncompliance delivered by personal service or certified mail.

2. A written notice of intent to suspend or permanently revoke the license at least thirty days after the date of the notice of noncompliance provided pursuant to paragraph 1 of this subsection. The state agency, city, town or county shall present any new evidence of grounds for revocation in the written notice required by this paragraph. A business that receives a notice pursuant to this paragraph and disputes the claim shall respond to the state agency, city, town or county within twenty days after receiving the notice.

J. Any dispute relating to the suspension or permanent revocation of a license held by a business or used to operate a business shall be resolved by a court of competent jurisdiction in this state. A state agency, city, town or county may not suspend or permanently revoke a license held by a business or used to operate a business until the business has received both notices prescribed in subsection I of this section and all appeals have been exhausted. The court may award reasonable attorney fees and damages to a business in an action relating to the suspension or permanent revocation of a license held by a business or used to operate a business.