



RS 29:766



§766. Declaration of a state of public health emergency

A. Declaration.

A state of public health emergency may be declared by executive order or proclamation of the governor, following consultation with the public health authority, if he finds a public health emergency as defined in R.S. 29:762 has occurred or the threat thereof is imminent.

B. Content of declaration.

A state of public health emergency shall be declared by an executive order or proclamation that indicates the nature of the public health emergency, the area or areas which are or may be affected, and the conditions which have brought it about or which make possible the termination of the state of disaster or emergency. An executive order or proclamation shall be disseminated promptly by means reasonably calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the public health emergency prevent or impede it, the executive order or proclamation shall be promptly filed with the Governor's Office of Homeland Security and Emergency Preparedness, with the Louisiana Department of Health, office of public health, and with the secretary of state.

C. Effect of the declaration.

The declaration of a state of public health emergency by the governor shall activate the state's emergency response and recovery program under the command of the director of the Governor's Office of Homeland Security and Emergency Preparedness.

D. Emergency powers.

During a state of public health emergency, in addition to any powers conferred upon the governor by law, he may do any or all of the following:

- (1) Suspend the provisions of any regulatory statute prescribing procedures for the conducting of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency.
- (2) Utilize all available resources of the state government and of each political subdivision of the state as reasonably necessary to cope with the disaster or emergency.
- (3) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services.
- (4) Subject to any applicable requirements for compensation, commandeer or utilize any private property if he finds this necessary to cope with the disaster or emergency. For purposes of this Paragraph, private property does not include firearms, ammunition, or components of firearms or ammunition.
- (5) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems this action necessary for the preservation of life or other disaster mitigation, response or recovery.
- (6) Prescribe routes, modes of transportation, and destination in connection with evacuation.
- (7) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein.
- (8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, excluding those components of firearm ammunition.
- (9) Make provision for the availability and use of temporary emergency housing.

E. Coordination.

The Governor's Office of Homeland Security and Emergency Preparedness, through consultation with the secretary of the Louisiana Department of Health, shall coordinate all matters pertaining to the public health emergency response of the state. The Governor's Office of Homeland Security and Emergency Preparedness, through consultation with the secretary of the Louisiana Department of Health, 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 the 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.
- (5) Organizing public information activities regarding public health emergency response operations.

F. Identification.

(1) 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.

(2) The identification shall indicate the authority of the bearer to exercise public health functions and emergency powers during the state of public health emergency.

(3) Public health personnel shall wear the identification in plain view.

G. Providing for promulgation of rules and protocol for the evacuation or sheltering in place of nursing homes in the event of an oncoming hurricane.

(1) The Louisiana Department of Health, in consultation with the Governor's Office of Homeland Security and Emergency Preparedness, shall promulgate rules by April 1, 2007, pursuant to the Administrative Procedure Act, which provide criteria for evacuation of nursing homes or sheltering in place during a hurricane. In promulgating such rules, the Louisiana Department of Health shall consider distinct properties and characteristics of locales including but not limited to drainage, elevation and canals, site specific surveys of nursing homes, storm surge, and the forecasted severity of the hurricane. Nothing herein shall relieve a nursing home of the duties, responsibilities, and obligations set forth in R.S. 40:2009.25, or set forth in any law, standard, rule, or regulation.

(2) If a nursing home determines that it should evacuate, and the nursing home has residents with medically complex conditions who are unable to be transported for which the nursing home is unable to find satisfactory placement, the Louisiana Department of Health shall assist such nursing homes to arrange placement of those residents in nearby hospitals or assist the nursing homes with other arrangements for their safekeeping, including sheltering in place. In the event such space is not available, the Louisiana Department of Health shall transmit the request for assistance to the Federal Emergency Management Agency or its successor. For purposes of this Subsection, residents with medically complex conditions shall be defined as those residents who:

(a) Are receiving the following care and services:

(i) Tracheotomy or respirator care.

(ii) Stage III or IV decubitus ulcer care.

(iii) Kidney dialysis.

(iv) Intravenous therapy.

(v) Comatose care.

(vi) Other care and services as provided for in promulgated rules; and

(b) Are likely to significantly deteriorate during an evacuation.

(3) If a nursing home determines that it should evacuate and is unable to proceed to its sheltering host site required under R.S. 40:2009.25, the nursing home or the Louisiana Nursing Home Association shall notify the Department of Children and Family Services in its capacity as Emergency Support Function 6 primary lead agency and request assistance in identifying available shelter sites that best meet the needs of the resident. The state shall attempt to assist the nursing home in locating shelter space to the best of its ability based on available shelter space and in lieu thereof shall transmit the request to the Federal Emergency Management Agency or its successor.

(4) If a nursing home determines that it should evacuate and encounters problems with obtaining transportation from its transportation service provider required under R.S. 40:2009.25, the nursing home shall notify its local or parish office of homeland security and emergency preparedness and ask for assistance with transportation. If the local or parish office of homeland security and emergency preparedness is unable to assist the nursing home in obtaining transportation, the local or parish office of homeland security and emergency preparedness shall notify the Governor's Office of Homeland Security and Emergency Preparedness which shall task the request to the appropriate emergency support function. The state shall attempt to secure transportation to the best of its ability based on available transportation assets and in lieu thereof shall transmit the request to the Federal Emergency Management Agency or its successor.

(5) Nursing homes required to participate in a mandatory evacuation as directed by the appropriate parish or state official or which act as host shelter sites shall submit their costs directly related to the evacuation and temporary sheltering of their residents to the Louisiana Department of Health. The Louisiana Department of Health shall seek reimbursement on behalf of the nursing homes from the Federal Emergency Management Agency or its successor to the extent such costs are reimbursable under the Stafford Act or the regulations promulgated thereunder. Nursing homes shall provide documentation of these costs to the Louisiana Department of Health. The state shall not be liable or otherwise responsible unless there has been a change to the state Medicaid plan approved by the Center for Medicare and Medicaid Services that provides for facility specific reimbursement for documented and allowable costs of evacuation or sheltering, for reimbursement to a nursing home for any cost incurred by the nursing home for evacuation and sheltering of the nursing home's residents. The secretary of the Louisiana Department of Health shall submit a Medicaid state plan amendment that provides for the facility specific reimbursement for documented and allowable costs of evacuation or sheltering of a Medicaid certified nursing home's residents to the Centers for Medicare and Medicaid Services no later than January 1, 2007. The state shall be reimbursed by any nursing home for all costs incurred by the state for the evacuation and sheltering of the nursing home's residents less any reimbursement received by the state from other sources for purposes of evacuating and sheltering said nursing home's residents.

(6) Nothing herein shall preclude a nursing home from giving notice of the impending evacuation to local next of kin who have previously stated that they would recover the nursing home resident and assume responsibility for their care in the event of an evacuation.

Acts 2003, No. 1206, §1; Acts 2006, 1st Ex. Sess., No. 35, §§1, 8, eff. March 1, 2006; Acts 2006, No. 442, §3, eff. June 15, 2006; Acts 2006, No. 540, §1, eff. June 22, 2006; Acts 2020, No. 325, §2.