

36-787. Public health authority during state of emergency or state of war emergency

A. During a state of emergency or state of war emergency declared by the governor in which there is an occurrence or imminent threat of an illness or health condition 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 for temporary waiver of the professional licensure requirements necessary for the implementation of 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 for implementation of 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, 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 illness resulting from exposure or who are reasonably believed to have been exposed or who may reasonably be expected to be exposed.
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 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 nothing in this title shall 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. Nothing in this title shall authorize the department or any of its officers or representatives to impose on any person contrary to his 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 declared pursuant to this section in seeking reimbursement of costs incurred as a result of providing services related to the implementation of isolation and quarantine under this article to the extent these services are not otherwise subject to reimbursement.