

CHAPTER 9. LOUISIANA HEALTH EMERGENCY POWERS ACT

§760. Short title

This Chapter shall be cited as the "Louisiana Health Emergency Powers Act".

Acts 2003, No. 1206, §1.

§761. Purpose

A. Because the government must do all that is reasonable and necessary to protect the health and safety of its citizens; because new and emerging dangers, including emergent and resurgent infectious diseases and incidents of civilian mass casualties, pose serious and immediate threats; because a renewed focus on the prevention, detection, management, and containment of public health emergencies is essential; and because emergency health threats, including those caused by bioterrorism, may require the exercise of extraordinary government powers and functions, the state must have the ability to respond, rapidly and effectively, to potential or actual public health emergencies. The purposes of this Chapter are:

(1) To require the development of a comprehensive plan that operates within the framework of the State Emergency Operations Plan and that provides for a coordinated, appropriate response in the event of a public health emergency.

(2) To suspend administrative policies and procedures to the extent the governor deems necessary within the parameters of the Louisiana Emergency Assistance and Disaster Act of 1993, as amended (R.S. 29:701 et seq.),¹ and in the interest of providing for the following priorities in the context of a public health emergency:

(a) The protection of human life.

(b) Controlling the spread of human disease.

(c) Meeting the immediate emergency needs of the people of Louisiana, specifically medical services, shelter, food, water, and sanitation as outlined in Annex M of the State Emergency Operations Plan.

(d) Restoring and continuing operations of facilities and services essential to the health, safety, and welfare of the people of Louisiana.

(e) Preserving evidence for law enforcement investigations and prosecutions.

(3) 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.

B. It is further declared to be the purpose of this Chapter and the policy of the state of Louisiana that all health emergency powers of the state be coordinated to the maximum extent possible with the comparable functions of the federal government, other states and localities, and private agencies of

every type, to the end that the most effective preparation and use may be made of the resources and facilities available for dealing with any public health emergency or bioterrorism event that may occur.

Acts 2003, No. 1206, §1.

¹See now the Louisiana Homeland Security and Emergency Assistance and Disaster Act (R.S. 29:721 et seq.)

§762. Definitions

As used in this Chapter:

(1) "Bioterrorism" means 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 other living organism in order to influence the conduct of government or to intimidate or coerce a civilian population.

(2) "Chain of custody" means 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" means an infectious disease that can be transmitted from person to person.

(4) "Health care provider" means a clinic, person, corporation, facility, or institution which provides health care or professional services by a physician, dentist, registered or licensed practical nurse, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, psychologist, or psychiatrist, and any officer, employee, or agent thereof acting in the course and scope of his service or employment.

(5) "Infectious disease" means 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.

(6) "Infectious waste" means:

(a) "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.

(b) "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.

(c) "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.

(d) "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.

(7) "Isolation" means the physical separation and confinement of an individual or groups of individuals who are infected or are 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.

(8) "Mental health support personnel" includes but is not limited to psychiatrists, psychologists, social workers, and volunteer crisis counseling groups.

(9) "Military Department, state of Louisiana" includes the Louisiana National Guard, the army national guard, the air national guard, or any other military force organized under the laws of this state.

(10) "Protected health information" means 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. "Protected health information" includes any health or medical information, document, or record designated as confidential by state or federal law.

(11) "Public health authority" means the secretary of the Louisiana Department of Health, or his designee, and the state health officer.

(12) A "public health emergency" means an occurrence or imminent threat of an illness or health condition that:

(a) Is believed to be caused by any of the following:

(i) Bioterrorism.

(ii) The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin.

(iii) A disaster, including but not limited to natural disasters such as hurricane, tornado, storm, flood, high winds, and other weather related events, forest and marsh fires, and man-made disasters, including but not limited to nuclear power plant incidents or nuclear attack, hazardous materials

incidents, accidental release or chemical attack, oil spills, explosion, civil disturbances, public calamity, hostile military action, and other events related thereto.

(b) Poses a high probability of any of the following harms:

(i) A large number of deaths in the affected population.

(ii) A large number of serious or long-term disabilities in the affected population.

(iii) 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.

(13) "Quarantine" means 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.

(14) "Specimens" include but are not limited to blood, sputum, urine, stool, other bodily fluids, wastes, tissues, and cultures necessary to perform required tests.

(15) "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.

(16) "Trial court" means the state judicial district court for the district in which isolation or quarantine is to occur, or, in the case of a declaration that involves more than a single state judicial district, the Nineteenth Judicial District Court.

Acts 2003, No. 1206, §1.

§763. Preparation of Bioterrorism Response Plan; Homeland Security Advisory Council

The Subcommittee on Chemical and Biological Terrorism of the Homeland Security Advisory Council, as established by the Governor's Office of Homeland Security and Emergency Preparedness, or its successor, shall have responsibility for the preparation and updating of Annex M of the State Emergency Operations Plan.

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

§764. Public Health Emergency Plan

A. Content. The Subcommittee on Chemical and Biological Terrorism of the Homeland Security Advisory Council shall, within twelve months of its appointment, deliver to the governor a plan for responding to a public health emergency, incorporating all applicable provisions of the State Operations Emergency Plan and including provisions or guidelines on the following:

(1) The organizational structure shall be established in accordance with the Louisiana Homeland Security and Emergency Assistance and Disaster Act, as amended (R.S. 29:721 et seq.), and shall utilize the command and control structure established under the state homeland security and emergency preparedness agency. The secretary of the Louisiana Department of Health or his designee shall be the principal advisor to the director and assistant directors of the Governor's Office of Homeland Security and Emergency Preparedness.

(2) Tailoring the disaster emergency plan to include the unique aspects relevant to a public health emergency or bioterrorism incident, including but not limited to:

(a) The location, procurement, storage, transportation, maintenance, and distribution of essential materials, including but not limited to medical supplies, drugs, vaccines, antidotes, food, shelter, clothing and beds.

(b) The continued, effective operation of the judicial system including, if deemed necessary, the identification and training of personnel to serve as emergency judges regarding matters of isolation and quarantine as described in this Chapter.

(c) The method of evacuating populations, and housing and feeding the evacuated populations.

(d) The identification and training of health care providers to diagnose and treat persons with infectious diseases.

(e) The vaccination of persons, in compliance with the provisions of this Chapter.

(f) The treatment of persons who have been exposed to or who are infected with diseases or health conditions that may be the cause of the public health emergency.

(g) Tracking the source and outcomes of infected persons.

(h) Provisions permitting persons for reasons of health, religion, or conscience to refuse medical examination or testing, vaccination, or medical treatment; provided, such persons may be subject to isolation or quarantine under the provisions of this Chapter.

(3) Ensuring that each municipality and parish within the state identifies the following:

(a) Sites where persons can be isolated or quarantined in compliance with the conditions and principles of this Chapter.

(b) Sites where medical supplies, food, and other essentials can be distributed to the population.

(c) Sites where public health and emergency workers can be housed and fed.

(d) Routes and means of transportation of people and materials.

(4) Protecting the citizens of the state regarding:

(a) Protection of individually identifiable health information to the extent possible within the context of the public health emergency.

(b) Intrusion upon basic liberties without just cause.

(c) Vaccination and treatment of those exposed to or infected with disease.

(d) Isolation and quarantine by the least restrictive means necessary to prevent the spread of a contagious or possibly contagious disease to others.

(5) Individuals may be subjected to temporary isolation without notice, but only when that meets the test of being the least restrictive means necessary.

(6) All actions regarding isolation and quarantine shall receive priority on the dockets of the specified state judicial district courts.

(7) Those in isolation or quarantine shall be entitled to adequate communication with family and counsel.

(8) Provisions relative to enlisting the support of in-state and out-of-state health care providers to assist in the inoculation, treatment, isolation, quarantine or other measures necessary to properly manage the public health emergency.

(9) Provide for the temporary appointment, licensing or credentialing of health care providers who are willing to assist in responding to the public health emergency.

B. The Governor's Office of Homeland Security and Emergency Preparedness 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.

C. The Homeland Security Advisory Council shall ensure that the plan be maintained current to the maximum extent possible.

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.

§765. Measures to detect and track public health emergencies

A. Reporting. Reporting shall be in accordance with directives and procedures established by the Governor's Office of Homeland Security and Emergency Preparedness in conjunction with the office of public health and shall include the following information:

(1) Illness or health condition.

(a) A health care provider, coroner, laboratory official, veterinarian, or medical examiner shall report all cases of persons or animals who harbor any illness or health condition that may be potential causes of a public health emergency.

(b) Reportable illnesses and health conditions include but are not limited to the diseases caused by the biological agents listed in 42 CFR §72, app. A (2000) or in the Louisiana State Sanitary Code, and any illnesses or health conditions identified by the Louisiana Department of Health, office of public health or the Homeland Security Advisory Council, as provided in regulations.

(2) Manner of reporting.

(a) The report shall be made immediately by telephone to the office of public health, infectious disease epidemiology section, as required by the Louisiana State Sanitary Code, and then electronically or in writing within twenty-four hours to the Governor's Office of Homeland Security and Emergency Preparedness, office of public health-infectious disease epidemiology section, or the state health officer. In all instances it is the responsibility of these agencies to insure that the secretary of the Louisiana Department of Health, the office of public health, the state health officer and the Governor's Office of Homeland Security and Emergency Preparedness are immediately notified of any report.

(b) The report shall include as much of the following information as is available:

(i) The specific illness or health condition that is the subject of the report.

(ii) The patient's name, date of birth, sex, occupation, and current home and work addresses.

(iii) The name and address of the health care provider, coroner, or medical examiner and of the reporting individual, if different.

(iv) Any other information needed to locate the patient for follow-up.

(c) 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.

(3) The Governor's Office of Homeland Security and Emergency Preparedness shall enforce the provisions of this Section in accordance with existing enforcement rules and regulations.

B. Tracking.

(1) 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.

(2) The public health authority shall investigate all such cases for sources of infection and to ensure that they are subject to proper control measures.

(3) The public health authority shall define the distribution of the illness or health condition and shall have the authority to identify exposed individuals.

C. 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 it

reasonably believes may be the cause of a public health emergency, it shall immediately notify the Governor's Office of Homeland Security and Emergency Preparedness and the office of public health.

(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 Governor's Office of Homeland Security and Emergency Preparedness, the secretary of the Louisiana Department of Health, 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.

D.(1) As used in this Subsection, "reporting entity" includes a health care provider, coroner, laboratory official, veterinarian, medical examiner, public health authority, public safety authority, and other state or local government agency.

(2) A reporting entity shall submit protected health information in the custody of the entity to the Governor's Office of Homeland Security and Emergency Preparedness, the Military Department, state of Louisiana, office of public health, public health authority, governor, public safety authority, tribal authority, and federal health and public safety authorities as required in this Section, in order that they may perform their respective functions and duties as provided in this Chapter.

(3) Protected health information submitted pursuant to this Chapter to the Governor's Office of Homeland Security and Emergency Preparedness, Military Department, state of Louisiana, office of public health, public health authority, governor, public safety authority, tribal authority, and federal health and public safety authority shall be confidential and shall be disclosed only as provided in this Chapter or as otherwise required or authorized by state or federal law.

(4) The furnishing of protected health information or in accordance with this Section by any reporting entity shall not expose the entity to liability and shall not be considered a violation of any privileged or confidential relationship.

(5) Nothing in this Subsection shall prohibit the publishing of statistical compilations pertaining to potential causes of a public health emergency which do not identify individual cases, confidential sources of information, religious affiliations, or individual health care providers.

(6) Any person who intentionally discloses any protected health information to any third person, unless authorized or required by state or federal law, shall be subject to civil penalties as provided in R.S. 40:3.1(G) which shall be paid to the person whose record was unlawfully disclosed. Nothing in this Subsection shall prevent a person damaged by an unauthorized intentional disclosure from collecting civil damages to the extent of any actual damages suffered because of such a disclosure.

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

§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.

(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, firearms, explosives, and combustibles.

(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.

§767. Enforcement of a declaration of public health emergency

The director of the Governor's Office of Homeland Security and Emergency Preparedness may, pursuant to the Administrative Procedure Act, adopt such rules and regulations as are necessary to implement his authority under the provisions of this Chapter and such authority as the governor shall designate to him

pursuant to the provisions of this Chapter and the Louisiana Homeland Security and Emergency Assistance and Disaster Act, as amended (R.S. 29:721 et seq.).

Acts 2003, No. 1206, §1; Acts 2006, 1st Ex. Sess., No. 35, §1, eff. March 1, 2006; Acts 2006, No. 442, §3, eff. June 15, 2006.

§768. Termination of declaration of public health emergency

A. The state of public health emergency shall continue until the governor finds that the threat of danger has passed or the disaster or emergency has been dealt with to the extent that the emergency conditions no longer exist and terminates the state of public health or emergency by executive order or proclamation, but no state of public health emergency may continue for longer than thirty days unless renewed by the governor.

B. The legislature, in consultation with the public health authority, by a petition signed by a majority of the surviving members of either house, may terminate a state of public health emergency at any time. This petition terminating the public health emergency may establish a period during which no other declaration of public health emergency may be issued. Thereupon, the governor shall issue an executive order or proclamation ending the state of public health or emergency.

Acts 2003, No. 1206, §1.

§769. Special powers during a state of public health emergency; control of property

A. Emergency measures concerning facilities and materials. The Governor's Office of Homeland Security and Emergency Preparedness, in consultation with the secretary of the Louisiana Department of Health, and state, regional and local public health emergency agencies, may exercise, in accordance with such declaration of public health emergency and for such period as the state of public health emergency exists, the following powers over facilities and materials:

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

(2) 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.

B. Access to and control of facilities and property. The Governor's Office of Homeland Security and Emergency Preparedness, in consultation with the secretary of the Louisiana Department of Health and state, regional and local public health emergency agencies, may exercise, in accordance with such declaration of public health emergency and for such period as the state of public health emergency exists, the following powers concerning facilities, materials, roads, and public areas.

(1) To procure, by appropriation or otherwise, construct, lease, transport, store, maintain, renovate, or distribute materials and facilities as may be reasonable 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:

- (a) Communication devices.
- (b) Carriers.
- (c) Real estate.
- (d) Fuels.
- (e) Food and clothing.

(2) Provision of services or use of a health care facility. In accordance with Annex M of the State Emergency Operations Plan and the State Weapons of Mass Destruction Plan, health care facilities are to coordinate the medical care reasonable and necessary to respond to the declared public health emergency.

(3) In accordance with R.S. 40:10 and as may be reasonable and necessary to respond to a state of public health emergency, the state health officer may employ any means to control the use of food, fuel, clothing, and other commodities. The following meanings shall apply:

- (a) "Any means" includes rationing, quotas, allocations, prohibitions of shipments, or other means.
- (b) "Control" includes inspect, restrict or regulate.
- (c) "Use" includes sale, dispensing, distribution and transportation.

C. 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) To adopt and enforce measures to provide for 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:

- (a) Collection.
- (b) Storage.
- (c) Handling.
- (d) Destruction.
- (e) Treatment.

(f) Transportation.

(g) Disposal of infectious waste.

(2) Control of facilities.

(a) To require any business or facility authorized to collect, store, handle, destroy, retreat, transport, and dispose of infectious waste, 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 to do business in the state as such a business or facility.

(b) 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.

(3) Use of facilities. To appropriate or otherwise procure the following, as may be reasonable and necessary to respond to the public health emergency, with the right to take immediate possession of:

(a) Any business or facility authorized to collect, store, handle, destroy, treat, transport, or dispose of infectious waste.

(b) Any landfill business or other such property.

D. Safe disposal of human remains. The office of public health may, for such period as the state of public health emergency exists, exercise control over the disposal of human remains, as provided for in regulations promulgated in accordance with R.S. 49:950 et seq.

E. Temporary registration of health care professionals. Any board or commission placed within the Louisiana Department of Health by R.S. 36:259(A)(1) through (16), (19) through (21), and (24) and (B)(32) and 629(S) may exercise during such period as the declared state of public health emergency exists, the power reasonably necessary to issue temporary registrations to health care providers licensed, certified, or registered in another jurisdiction of the United States whose licenses, certifications, or registrations are current and unrestricted and in good standing in such jurisdictions. The boards and commissions may promulgate rules creating an expedited emergency process for issuance of emergency temporary registrations. Such temporary registrations may be granted for a period of not more than sixty days at the discretion of the board or commission, with the possible extension of up to two additional sixty-day periods as determined appropriate and necessary by the board or commission. The temporary registrants shall register with the respective board or commission prior to providing professional services in this state. Rules promulgated pursuant to the provisions of this Section may, at the discretion of the board or commission, provide that the temporary registrants shall only be allowed to provide gratuitous services specified by the board or commission, or its designee for such purpose. Within thirty days after June 2, 2006, each such board or commission shall file an emergency plan with the department for processes related to registration of health care

providers licensed, certified, or registered in another jurisdiction of the United States responding to the public health emergency.

Acts 2003, No. 1206, §1; Acts 2006, 1st Ex. Sess., No. 35, §8, eff. March 1, 2006; Acts 2006, No. 207, §1, eff. June 2, 2006; Acts 2006, No. 442, §3, eff. June 15, 2006.

§770. Public information regarding a public health emergency

A. Dissemination of information.

(1) In addition to the information provided in the declaration of a state of public health emergency as set out in R.S. 29:766(B), the secretary of the Louisiana Department of Health or his designee shall inform the public how to protect themselves during a state of public health emergency, and what actions are being taken to control the emergency.

(2) Means of dissemination. The secretary of the Louisiana Department of Health or his designee shall provide information by all available and reasonable means calculated to bring the information promptly to the attention of the general public.

(3) Languages. If the secretary of the Louisiana Department of Health or his designee 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.

(4) Access. The provision of information shall be made in a manner accessible to individuals with disabilities.

B. Access to mental health support personnel.

(1) During a declaration of a state of public health emergency, the secretary of the Louisiana Department of Health or his designee shall provide information about and referrals to mental health support personnel to address psychological responses to the public health emergency.

(2) After a declaration of a state of public health emergency, the secretary of the Louisiana Department of Health or his designee shall provide information about and referrals to mental health support personnel to address psychological responses to the public health emergency.

Acts 2003, No. 1206, §1.

§771. Miscellaneous

A. Financing of the public health emergency shall be accomplished pursuant to R.S. 29:731.

B. Liability.

(1) State immunity. State immunity shall be determined in accordance with R.S. 29:735, which shall be applicable to this Chapter.

(2) Private liability.

(a) 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.

(b) 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 Chapter 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.

(c) During a state of public health emergency, any health care providers 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.

(d) 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 Chapter 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.

(e) 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.

C. 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 Chapter.

(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 expropriation procedures, as provided in R.S. 48:441 through 460, except that the amount of compensation calculated for items obtained under R.S. 29:769, shall be limited to the costs incurred to produce the item.

Acts 2003, No. 1206, §1.

§772. Exclusion

R.S. 29:736 shall apply to this Chapter.

Acts 2003, No. 1206, §1.