

CHAPTER 4
Emergency Health Powers

ARTICLE 1
General Provisions

Editor's Note

2002 Act No. 339, Section 1, provides as follows:

"This act may be cited as the 'South Carolina Homeland Security Act'."

SECTION 44-4-100. Short title.

This act may be cited as the "Emergency Health Powers Act."

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-110. Legislative findings and intent.

The General Assembly finds that:

- (1) the government must do more to protect the health, safety, and general well being of our 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 called for;
- (4) emergency health threats, including those caused by chemical terrorism, radiological terrorism, bioterrorism, and epidemics, require the exercise of extraordinary government functions. Chemical terrorism and bioterrorism pose especial threats to the food supply of the State;
- (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, it is the duty of this State to act with fairness and tolerance toward individuals and groups;
- (9) the rights of people to liberty, bodily integrity, and privacy must be respected to the fullest extent possible consistent with the overriding importance of the public's health and security; and
- (10) this act is necessary to protect the health and safety of the citizens of this State.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-120. Purpose.

The purposes of this act are:

- (1) to authorize the collection of data and records, the control of property, the management of persons, and access to communications as may be strictly necessary to accomplish the purposes of this act;
- (2) to facilitate the early detection of a qualifying health event or public health emergency, and allow for immediate investigation of such an emergency by granting access to individuals' health information under specified circumstances;
- (3) to grant state officials the authority to use and appropriate property as necessary for the care, treatment, and housing of patients, and for the destruction or decontamination of contaminated materials;
- (4) to grant state officials the authority to provide care and treatment to persons who are ill or who have been exposed to infection, and to separate affected individuals from the population at large for the purpose of interrupting the transmission of infectious disease;
- (5) to ensure that the needs of infected or exposed persons will be addressed to the fullest extent possible, given the primary goal of controlling serious health threats;

(6) to provide state officials with the ability to prevent, detect, manage, and contain emergency health threats without unduly interfering with civil rights and liberties; and

(7) to require the development of a comprehensive plan to provide for a coordinated, appropriate response in the event of a public health emergency.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-130. Definitions.

As used in the chapter:

(A) "Biological agent" means a microorganism, virus, infectious substance, naturally occurring or bioengineered product, or other biological material that could cause death, disease, or other harm to a human, an animal, a plant, or another living organism.

(B) "Bioterrorism" means the intentional use or threatened use of a biological agent to harm or endanger members of the public.

(C) "Chemical agent" means a poisonous chemical agent that has the capacity to cause death, disease, or other harm to a human, an animal, a plant, or another living organism.

(D) "Chemical terrorism" means the intentional use or threatened use of a chemical agent to harm or endanger members of the public.

(E) "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.

(F) "Commissioner" means the Commissioner of the Department of Health and Environmental Control.

(G) "Contagious disease" is an infectious disease that can be transmitted from person to person, animal to person, or insect to person.

(H) "Coroners, medical examiners, and funeral directors" have the same meanings as provided in Sections 17-5-5 and 40-19-10, respectively.

(I) "DHEC" means the Department of Health and Environmental Control or any person authorized to act on behalf of the Department of Health and Environmental Control.

(J) "Facility" means any real property, building, structure, or other improvement to real property or any motor vehicle, rolling stock, aircraft, watercraft, or other means of transportation.

(K) "Health care facility" means any nonfederal 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, health maintenance organizations, 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 daycare centers. The term 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, and patient, guest, and health personnel food service facilities, and offices and office buildings for persons engaged in health care professions or services.

(L) "Health care provider" means 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, firefighters who provide emergency medical care, emergency medical or laboratory technicians, and ambulance and emergency medical workers. This includes out-of-state medical laboratories, provided that such laboratories have agreed to the reporting requirements of South Carolina. 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.

(M) "Infectious disease" is a disease caused by a living organism or virus. An infectious disease may, or may not, be transmissible from person to person, animal to person, or insect to person.

(N) "Isolation" and "quarantine" mean the compulsory physical separation (including the restriction of movement or confinement) of individuals and/or groups believed to have been exposed to or known to have been infected with a contagious disease from individuals who are believed not to have been exposed or infected, in order to prevent or limit the transmission of the disease to others; if the context so requires, "quarantine" means compulsory physical separation, including restriction of movement, of populations or groups of healthy people who have been potentially exposed to a contagious disease, or to efforts to segregate these persons within specified geographic areas. "Isolation" means the separation and confinement of individuals known or suspected (via signs, symptoms, or laboratory criteria) to be infected with a contagious disease to prevent them from transmitting disease to others.

(O) "Protected health information" means any information, whether oral, written, electronic, visual, pictorial, physical, 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 reasonably should be known to be, available to predictable recipients of such information) to reveal the identity of that individual.

(P) "Public health emergency" means the occurrence or imminent risk of a qualifying health condition.

(Q) "Public safety authority" means the Department of Public Safety, the State Law Enforcement Division, or designated persons authorized to act on behalf of the Department of Public Safety, the State Law Enforcement Division including, but not limited to, local governmental agencies that act principally to protect or preserve the public safety, or full-time commissioned law enforcement persons.

(R) "Qualifying health condition" means:

(1) a natural disaster; or

(2) an illness or health condition that may be caused by terrorism, epidemic or pandemic disease, or a novel infectious agent or biological or chemical agent and that poses a substantial risk of a significant number of human fatalities, widespread illness, or serious economic impact to the agricultural sector, including food supply.

(S) "Radioactive material" means a radioactive substance that has the capacity to cause bodily injury or death to a human, an animal, a plant, or another living organism.

(T) "Radiological terrorism" means the intentional use or threatened use of a radioactive material to harm or endanger members of the public.

(U) "Specimens" include, but are not limited to, blood, sputum, urine, stool, other bodily fluids, wastes, tissues, and cultures necessary to perform required tests, and environmental samples or other samples needed to diagnose potential chemical, biological, or radiological contamination.

(V) "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.

(W) "Trial court" is the circuit court for the county in which the isolation or quarantine is to occur or to the circuit court for the county in which a public health emergency has been declared. If that court is unable to function because of the isolation, quarantine, or public health emergency, the trial court is a circuit court designated by the Chief Justice upon petition and proper showing by the Department of Health and Environmental Control.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002; 2008 Act No. 341, Section 1, eff June 11, 2008.

ARTICLE 3

Special Powers During State of Public Health Emergency: Control of Property

SECTION 44-4-300. Powers over dangerous facilities and materials.

After the declaration of a state of public health emergency, DHEC may exercise, in coordination with state agencies, local governments, and other organizations responsible for implementation of the emergency support functions in the State Emergency Operations Plan for handling dangerous facilities and materials, for such period as the state of public health emergency exists, the following powers over dangerous facilities or materials:

(1) 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; and

(2) to decontaminate or cause to be decontaminated, any material of which there is reasonable cause to believe that it may endanger the public health.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-310. Use of health care facility or services in response to public health emergency.

DHEC, in coordination with the guidelines of the State Emergency Operations Plan, may, for such period as the state of public health emergency exists and as may be reasonable and necessary for emergency response, require a health care facility to provide services or the use of its facility if the services 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. When DHEC needs the use or services of the facility to isolate or quarantine individuals during a public health emergency, the management and supervision of the health care facility must be coordinated with DHEC to ensure protection of existing patients and compliance with the terms of this act.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-320. Powers and duties regarding safe disposal of human remains.

(A) DHEC must coordinate with coroners, medical examiners, and funeral directors, for such period as the state of public health emergency exists, to exercise, in addition to existing powers, the following powers regarding the safe disposal of human remains:

(1) to take possession or control of any human remains which cannot be safely handled otherwise;

(2) to order the disposal of human remains of a person who has died of an infectious disease through burial or cremation within twenty-four hours after death;

(3) 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 these actions are reasonable and necessary for emergency response. When necessary during the period of time of the public health emergency, DHEC must coordinate with the business or facility on the management or supervision of the business or facility; and

(4) to procure, by order 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 for emergency response, with the right to take immediate possession thereof.

(B) Where possible, existing provisions set forth in the State Emergency Operations Plan for the safe disposal of human remains must be used in a public health emergency. Where the State Emergency Operations Plan is not sufficient to handle the safe disposal of human remains for a public health emergency, DHEC, in coordination with coroners, medical examiners, and funeral directors, must adopt and enforce measures to provide for the safe disposal of human remains as may be reasonable and necessary for emergency response. These measures may be related to procedures including, but not limited to, death certificates, autopsies, embalming, burial, cremation, interment, disinterment, transportation, and disposal of human remains.

(C) All human remains prior to disposal must be clearly labeled with all available information to identify the decedent and the circumstances of death. Any human remains of a deceased person with an infectious disease must have an external, clearly visible tag indicating that the human remains are infected and, if known, the infectious disease.

(D) Every person in charge of disposing of any human remains must maintain a written record of each set of human remains and all available information to identify the decedent and the circumstances of death and disposal. If the human remains cannot be identified, prior to disposal, a qualified person must, to the extent possible, take fingerprints and one or more photographs of the human remains, and collect a DNA specimen. All information gathered under this paragraph must be promptly forwarded to DHEC. Identification must be handled by the agencies that have laboratories suitable for DNA identification.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002; 2008 Act No. 341, Section 2, eff June 11, 2008.

SECTION 44-4-330. Purchase and distribution of pharmaceutical agents or medical supplies; rationing and quotas.

(A) After the declaration of a public health emergency, DHEC may purchase and distribute antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies that it considers advisable in the interest of preparing for or controlling a public health emergency, without any additional legislative authorization.

(B)(1) If a state of public health emergency results in a statewide or regional shortage or threatened shortage of any product covered by subsection (a), whether or not such product has been purchased by DHEC, DHEC may control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, price fixing, allocation or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the health, safety, and welfare of the people of the State. In making rationing or other supply and distribution decisions, DHEC must give preference to health care providers, disaster response personnel, and mortuary staff.

(2) During a state of public health emergency, DHEC may procure, store, or distribute any antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the State as may be reasonable and necessary for emergency response, with the right to take immediate possession thereof.

(3) If a public health emergency simultaneously affects more than one state, nothing in this section shall be construed to allow DHEC to obtain antitoxins, 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.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-340. Destruction of property; civil proceedings.

To the extent practicable and consistent with the protection of public health, prior to the destruction of any property under this article, DHEC in coordination with the applicable law enforcement agency must 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 DHEC through such proceedings must, after entry of the decree, be disposed of by destruction as the court may direct.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

ARTICLE 5

Special Powers During State of Public Health Emergency: Control of Persons

SECTION 44-4-500. Control and treatment of infectious disease.

During a state of public health emergency, DHEC must use every available means to prevent the transmission of infectious disease and to ensure that all cases of infectious disease are subject to proper control and treatment.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-510. Physical examinations or tests; isolation or quarantine of persons refusing examination.

(A)(1) During a state of public health emergency, DHEC may perform voluntary physical examinations or tests as necessary for the diagnosis or treatment of individuals.

(2) DHEC may isolate or quarantine, pursuant to the sections of this act and its existing powers under Section 44-1-140, any person whose refusal of physical 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.

(B)(1) Physical examinations or tests may be performed by any qualified person authorized to do so by DHEC.

(2) Physical examinations or tests must not be reasonably likely to result in serious harm to the affected individual.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-520. Vaccinations and treatment.

(A) During a state of public health emergency, DHEC may exercise the following emergency powers, in addition to its existing powers, over persons as necessary to address the public health emergency:

(1) to vaccinate persons as protection against infectious disease and to prevent the spread of contagious or possibly contagious disease;

(2) to treat persons exposed to or infected with disease; and

(3) to prevent the spread of contagious or possibly contagious disease, DHEC may isolate or quarantine, pursuant to the applicable sections of this act, persons who are unable or unwilling for any reason (including, but not limited to, health, religion, or conscience) to undergo vaccination or treatment pursuant to this section.

(B) Vaccinations or treatment, or both, must be provided only to those individuals who agree to the vaccinations or treatment, or both.

(C)(1) Vaccination may be performed by any qualified person authorized by DHEC.

(2) To be administered pursuant to this section, a vaccine must not be such as is reasonably likely to lead to serious harm to the affected individual.

(D)(1) Treatment must be administered by any qualified person authorized to do so by DHEC.

(2) Treatment must not be such as is reasonably likely to lead to serious harm to the affected individual.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-530. Isolation and quarantine of individuals or groups; penalty for noncompliance.

(A) During a public health emergency, DHEC may isolate or quarantine an individual or groups of individuals. This includes individuals or groups who have not been vaccinated, treated, tested, or examined pursuant to Sections 44-4-510 and 44-4-520. DHEC may also establish and maintain places of isolation and quarantine, and set rules and make orders.

(B) DHEC must 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) individuals isolated because of objective evidence of infection or contagious disease must be confined separately from quarantined asymptomatic 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 becomes infected or is reasonably believed to be infected with a contagious or possibly contagious disease, he or she must be promptly 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 must 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 must 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 or quarantined; and

(8) to the extent possible, cultural and religious beliefs must be considered in addressing the needs of the individuals and establishing and maintaining isolation and quarantine premises.

(C) A person subject to isolation or quarantine must comply with DHEC's rules and orders, and must not go beyond the isolation or quarantine premises. Failure to comply with these rules and orders constitutes a felony and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than thirty days, or both.

(D)(1) DHEC 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) No person, other than a person authorized by DHEC, shall enter isolation or quarantine premises. Failure to comply with this provision constitutes a felony and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than thirty days, or both.

(3) A person entering an isolation or quarantine premises with or without authorization of DHEC may be isolated or quarantined as provided for in this chapter.

(4) The public safety authority and other law enforcement officers may arrest, isolate, or quarantine an individual who is acting in violation of an isolation or quarantine order after the order is given to the individual pursuant to Section 44-4-540(B)(3) or after the individual is provided notice of the order. In a case where an individual is not the subject of an isolation or quarantine order under Section 44-4-540, law enforcement officers may provide written or verbal notice of the order. Law enforcement officers may arrest, isolate, or quarantine an individual who is acting in violation of isolation or quarantine rules after the rules are established and the individual is given written or verbal notice of the rules. An arrest warrant or an additional isolation or quarantine order is not required for arrest, isolation, or quarantine under Section 44-4-530(D)(4).

(E) An employer may not fire, demote, or otherwise discriminate against an employee complying with an isolation or quarantine order issued pursuant to Section 44-1-80, 44-1-110, 44-1-140, 44-4-520, 44-4-530, or 44-4-540; however, nothing in this section prohibits an employer from requiring an employee to use annual or sick leave to comply with such an order.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002; 2008 Act No. 341, Sections 3, 4, eff June 11, 2008.

SECTION 44-4-540. Isolation and quarantine procedures; order to show cause for not releasing.

(A) During a public health emergency, the isolation and quarantine of an individual or groups of individuals must be undertaken in accordance with the procedures provided in this section.

(B)(1) DHEC may temporarily isolate or quarantine an individual or groups of individuals through an emergency order signed by the commissioner or his designee, if delay in imposing the isolation or quarantine would significantly jeopardize DHEC's ability to prevent or limit the transmission of a contagious or possibly contagious disease to others.

(2) The emergency order must specify the following: (i) the identity of the individual 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 V of this act and relevant definitions of this act.

(3) A copy of the emergency order must be given to the individual(s) or groups of individuals to be isolated or quarantined, or if impractical to be given to a group of individuals, it may be posted in a conspicuous place in the isolation or quarantine premises.

(4) Within ten days after issuing the emergency order, DHEC must file a petition pursuant to subsection (C) of this section for a court order authorizing the continued isolation or quarantine of the isolated or quarantined individual or groups of individuals.

(C)(1) DHEC 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) A petition under subsection (C)(1) must specify the following: (i) the identity of the individual 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 statement of compliance with the conditions and principles for isolation or quarantine of Section 44-4-530(B); and (vi) a statement of the basis upon which isolation or quarantine is justified in compliance with this article. The petition must be accompanied by a sworn affidavit of DHEC 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 to individuals or groups of individuals identified in the petition must be accomplished within twenty-four hours in accordance with the South Carolina Rules of Civil Procedure. If notice by mail or fax is not possible, notice must be made by personal service.

(4) A hearing must be held on any petition filed pursuant to this subsection within five days of filing of the petition. In extraordinary circumstances and for good cause shown, DHEC may apply to continue the hearing date on a petition filed pursuant to this section for up to ten 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.

(5)(a) The court must 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.

(b) An order authorizing isolation or quarantine may do so for a period not to exceed thirty days.

(c) The order must: (i) identify the isolated or quarantined individuals or groups of individuals by name or shared or similar characteristics or circumstances; (ii) specify factual findings warranting isolation or quarantine pursuant to this act; (iii) include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this act; and (iv) served on affected individuals or groups of individuals in accordance with the South Carolina Rules of Civil Procedure. If notice by mail or fax is not possible, notice must be made by personal service.

(d) Prior to the expiration of an order issued pursuant to this item, DHEC may move to continue the isolation or quarantine for additional periods not to exceed thirty days each. The court must consider the motion in accordance with standards set forth in this item.

(D)(1) 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 must rule on the application to show cause within forty-eight hours of its filing. If the court grants the application, the court must schedule a hearing on the order to show cause within twenty-four hours from issuance of the order to show cause. The issuance of the order to show cause does not stay or enjoin the isolation or quarantine order.

(2)(a) An individual or group 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 does not stay or enjoin the isolation or quarantine order.

(b) Upon receipt of a request under this subsection alleging extraordinary circumstances justifying the immediate granting of relief, the court must fix a date for hearing on the matters alleged not more than twenty-four hours from receipt of the request.

(c) Otherwise, upon receipt of a request under this subsection, the court must fix a date for hearing on the matters alleged within five days from receipt of the request.

(3) In any proceedings brought for relief under this subsection, in extraordinary circumstances and for good cause shown, DHEC 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 the necessary witnesses and evidence.

(E) A record of the proceedings pursuant to this section must be made and retained. In the event that, given a state of public health emergency, parties cannot personally appear before the court, proceedings may be conducted by their authorized representatives and be held via any means that allow all parties to fully participate.

(F) The court must appoint counsel 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. Payment for these appointments must be made in accordance with other appointments for legal representation in actions arising outside of matters in this act, and is not the responsibility of any one state agency. Appointments last throughout the duration of the isolation or quarantine of the individual or groups of individuals. DHEC must provide adequate means of communication between such individuals or groups of individuals and their counsel. Where necessary, additional counsel for DHEC from other state agencies or from private attorneys appointed to represent state agencies, must be appointed to provide adequate representation for the agency and to allow timely hearings of the petitions and motions specified in this section.

(G) 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 groups of 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.

(H) Notwithstanding the provisions of subsection (A), prior to the Governor declaring a public health emergency, as defined in Section 44-4-130, the isolation and quarantine of an individual or groups of individuals pursuant to Section 44-1-80, 44-1-110, 44-1-140, 44-4-520, 44-4-530, or 44-4-540 must be undertaken in accordance with the procedures provided in this section.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002; 2008 Act No. 341, Section 5, eff June 11, 2008.

SECTION 44-4-550. Specimen collection and testing.

(A)(1) DHEC may, for such period as the state of public health emergency exists, collect or cause to be collected specimens and perform tests on any person or 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.

(2) Specimens shall be collected only from those individuals who agree to have specimens collected or who agree to have tests performed.

(3) All specimens must be clearly marked.

(4) Specimen collection, handling, storage, and transport to the testing site must be performed in a manner that will reasonably preclude specimen contamination or adulteration and provide for the safe collection, storage, handling, and transport of the specimen.

(5) Any person authorized to collect specimens or perform tests must use chain of custody procedures to ensure proper recordkeeping, handling, labeling, and identification of specimens to be tested. This requirement applies to all specimens, including specimens collected using on-site testing kits.

(B) Any business, facility, or agency authorized to collect specimens or perform tests must provide such support as is reasonable and necessary to aid in a relevant criminal investigation.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-560. Access to protected health information; disclosure.

(A) Access to protected health information of persons who have participated in medical testing, treatment, vaccination, isolation, or quarantine programs or efforts by DHEC during a public health emergency is limited to those persons having a legitimate need to:

- (1) provide treatment to the individual who is the subject of the health information;
- (2) conduct epidemiological research; or
- (3) investigate the causes of transmission.

(B) Protected health information held by DHEC must not be disclosed to others without individual specific informed authorization except for disclosures made:

- (1) directly to the individual;
- (2) to the individual's immediate family members or life partners;
- (3) to appropriate state or federal agencies or authorities when necessary to protect public health;
- (4) to health care personnel where needed to protect the health or life of the individual who is the subject of the information;
- (5) pursuant to a court order or executive order of the Governor to avert a clear danger to an individual or the public health; or
- (6) to coroners, medical examiners, or funeral directors or others dealing with human remains to identify a deceased individual or determine the manner or cause of death.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002.

SECTION 44-4-570. Emergency powers regarding licensing of health personnel; appointment of in-state and out-of-state providers; liability of appointed providers for civil damages; appointment of emergency medical examiners or coroners; waiver of licensing fees and requirements; immunity.

(A) DHEC, in coordination with the appropriate licensing authority and the Department of Labor, Licensing and Regulation, may exercise, for such period as the state of public health emergency exists, in addition to existing emergency powers, the following emergency powers regarding licensing of health personnel:

(1) 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) to accept the volunteer services of in-state and out-of-state health care providers consistent with Title 8, Chapter 25, to appoint such in-state and out-of-state health care providers as emergency support function volunteers, and to prescribe the duties as may be reasonable and necessary for emergency response; and

(3) 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.

(B)(1) The appointment of in-state and out-of-state health care providers pursuant to this section may be for a limited or unlimited time but must not exceed the termination of the state of public health emergency. DHEC may terminate the in-state and out-of-state appointments at any time or for any reason provided that any termination will not jeopardize the health, safety, and welfare of the people of this State.

(2) The appropriate licensing authority may waive any or all licensing requirements, permits, or fees required by law and applicable orders, rules, or regulations for health care providers from other jurisdictions to practice in this State.

(C)(1) Any health care provider appointed by the department pursuant to this section must not be held liable for any civil damages as a result of medical care or treatment including, but not limited to, trauma care and triage assessment, related to the appointment of the health care provider and the prescribed duties

unless the 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.

(2) This subsection applies if the health care provider does not receive payment from the State other than as allowed in Section 8-25-40 for the appointed services and prescribed duties. However, if the health care provider is an employee of the State, the health care provider may continue to receive compensation from the health care provider's employer. This subsection applies whether the health care provider was paid, should have been paid, or expected to be paid for the services at the time of rendering the services from sources including, but not limited to, Medicaid, Medicare, reimbursement under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Section 512, et seq., or private health insurance.

(D)(1) The appointment of emergency assistant medical examiners or coroners pursuant to this section may be for a limited or unlimited time, but must not exceed the termination of the state of public health emergency. The medical examiner or coroner may terminate the emergency appointments at any time or for any reason, if the termination will not impede the performance of the duties of the office.

(2) The medical examiner or coroner may waive any or all licensing requirements, permits, or fees required by law 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 is immune from civil liability for damages resulting from services relating to and performed during the period of appointment unless the damages result from providing, or failing to provide, services under circumstances demonstrating a reckless disregard for the consequences.

HISTORY: 2002 Act No. 339, Section 24, eff July 2, 2002; 2008 Act No. 341, Section 6, eff June 11, 2008.