

1 public health threats and disease transmission.

2 (8) Guided by principles of justice, it is the duty of this State to act with fairness and
3 tolerance towards individuals and groups.

4 (9) The rights of people to liberty, bodily integrity, and privacy must be respected to the
5 fullest extent possible consistent with the overriding importance of the public's health and
6 security.

7 (10) This act is necessary to protect the health and safety of the citizens of this State.

8 **30-15.10-3. Purposes.** – The purposes of this act are:

9 (1) To authorize the collection of data and records, the control of property, the
10 management of persons, and access to communications.

11 (2) To facilitate the early detection of a health emergency, and allow for immediate
12 investigation of such an emergency by granting access to individuals' health information under
13 specified circumstances.

14 (3) To grant state officials the authority to use and appropriate property as necessary for
15 the care, treatment, and housing of patients, and for the destruction of contaminated materials.

16 (4) To grant state officials the authority to provide care and treatment to persons who are
17 ill or who have been exposed to infection, and to separate affected individuals from the
18 population at large for the purpose of interrupting the transmission of infectious disease.

19 (5) To ensure that the needs of infected or exposed persons will be addressed to the
20 fullest extent possible, given the primary goal of controlling serious health threats.

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

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

25 **30-15.10-4. Definitions.** – As used herein:

26 (1) "Bioterrorism" is the intentional use of any microorganism, virus, infectious
27 substance, or biological product that may be engineered as a result of biotechnology, or any
28 naturally occurring or bioengineered component of any such microorganism, virus infectious
29 substance, or biological product, to cause death, disease, or other biological malfunction in a
30 human, an animal, a plant, or another living organism in order to influence the conduct of
31 government or to intimidate or coerce a civilian population.

32 (2) "Chain custody" means the methodology of tracking specimens for the purpose of
33 maintaining control and accountability from initial collection to final disposition of the specimens
34 and providing for accountability at each stage of collecting, handling, testing, storing, and

1 transporting the specimens and reporting test results.

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

4 (4) "Health care facility" means any nonfederal institution, building, or agency or portion
5 thereof, whether public or private (for-profit or nonprofit) that is used, operated, or designed to
6 provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any
7 person or persons. This includes, but is not limited to:

8 (i) ambulatory surgical facilities, health maintenance organizations, home health
9 agencies, hospices, hospitals, infirmaries, intermediate care facilities, kidney treatment centers,
10 long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities,
11 public health centers, rehabilitation facilities, residential treatments facilities, skilled nursing
12 facilities, and adult daycare centers. The term also includes, but is not limited to, the following
13 related property when used for or in connection with the foregoing: laboratories; research
14 facilities; pharmacies; laundry facilities; health personnel training and lodging facilities; patient,
15 guest, and health personnel food service facilities; and offices and office buildings for persons
16 engaged in health care professions or services.

17 (5) "Health care provider" means any person or entity who provides health care services
18 including, but not limited to, hospitals, medical clinics and offices, special care facilities, medical
19 laboratories, physic ians, pharmacists, dentists, physician assistants, nurse practitioners, registered
20 and other nurses, paramedics, emergency medical or laboratory technicians, and ambulance and
21 emergency medical workers.

22 (6) "Infectious disease" is a disease caused by a liv ing organism. An infectious disease
23 may, or may not, be transmissible from person to person, animal to person, or insect to person.

24 (7) "Infectious waste" means:

25 (i) "biological waste," which includes blood and blood products, excretions, exudates,
26 secretions, suctioning and other body fluids, and waste materials saturated with blood or body
27 fluids;

28 (ii) "cultures and stocks," which includes etiologic agents and associated biologicals,
29 including specimen cultures and dishes and devices used to transfer, inoculate, and mix cultures,
30 wastes from production of biologicals and serums, and discarded live and attenuated vaccines;

31 (iii) "pathological waste," which includes biopsy materials and all human tissues,
32 anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory
33 procedures and animal carcasses exposed to pathogens in research and the bedding and other
34 waste from such animals, but does not include teeth or formaldehyde or other preservative agents;

1 and

2 (iv) "sharps," which includes needles, IV tubing with needles attached, scalpel blades,
3 lancets, glass tubes that could be broken during handling, and syringes that have been removed
4 from their original sterile containers.

5 (8) "Isolation" and "quarantine" mean the compulsory physical separation (including the
6 restriction of movement or confinement) of individuals and/or groups believed to have been
7 exposed to or known to have been infected with a contagious disease from individuals who are
8 believed not to have been exposed or infected, in order to prevent or limit the transmission of the
9 disease to others.

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

12 (10) "Protected health information" means any information, whether oral, written,
13 electronic, visual, pictorial, physical, or any other form, that relates to an individual's past,
14 present, or future physical or mental health status, condition, treatment, service, products
15 purchased, or provision of care, and that reveals the identity of the individual whose health care is
16 the subject of the information, or where there is a reasonably basis to believe such information
17 could be utilized (either alone or with other information that is, or should reasonably be known to
18 be, available to predictable recipients of such information) to reveal the identity of that individual.

19 (11) "Public health authority" means the state department of health established pursuant
20 to the provisions of chapter 23-1.

21 (12) A "public health emergency" is an occurrence or imminent threat of an illness or
22 health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal
23 infectious agent or biological toxin, that poses a substantial risk of a significant number of human
24 fatalities or incidents of permanent or long-term disability. Such illness or health condition
25 includes, but is not limited to, an illness or health condition resulting from a natural disaster.

26 (13) "Public safety authority" means the Rhode Island emergency management agency
27 established pursuant to the provision of chapter 30-15.

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

30 (15) "Tests" include, but are not limited to, any diagnostic or investigative analyses
31 necessary to prevent the spread of disease or protect the public's health, safety, and welfare.

32 **30-15.10-5. Reporting – Potential public health emergencies. – (a) Illness or health**
33 **condition. A health care provider, coroner, or medical examiner shall report all cases of persons**
34 **who harbor any illness or health condition that may be caused by bioterrorism, epidemic or**

1 pandemic disease, or novel and highly fatal infectious agents or biological toxins and might pose
2 a substantial risk of a significant number of human fatalities or incidents of permanent or long-
3 term disability. Reportable illnesses and health conditions include, but are not limited to, the
4 diseases caused by the biological agents listed in 42 C.F.R. section 72, app. A (2000) and any
5 illnesses or health conditions identified by the public health authority as potential causes of a
6 public health emergency.

7 (b) Pharmacists. In addition to the foregoing requirements for health care providers, a
8 pharmacist shall report any unusual or increased prescription rates, unusual types of prescriptions,
9 or unusual trends in pharmacy visits that may be caused by bioterrorism, epidemic or pandemic
10 disease, or novel and highly fatal infectious agents or biological toxins and might pose a
11 substantial risk of a significant number of human fatalities or incidents of permanent or long-term
12 disability. Prescription-related events that require a report include, but are not limited to:

13 (1) An unusual increase in the number of prescriptions to treat fever, respiratory, or
14 gastrointestinal complaints;

15 (2) An unusual increase in the number of prescriptions for antibiotics;

16 (3) An unusual increase in the number of requests for information on over-the-counter
17 pharmaceuticals to treat fever, respiratory, or gastrointestinal complaints; and

18 (4) Any prescription that treats a disease that is relatively uncommon and has
19 bioterrorism potential.

20 (c) Manner of reporting. The report shall be made in writing within twenty-four (24)
21 hours to the public health authority. The report shall include as much of the following
22 information as is available: the patient's name, date of birth, sex, race, and current address
23 (including city and county); the name and address of the health care provider, coroner, or medical
24 examiner and of the reporting individual, if different; and any other information needed to locate
25 the patient for follow-up. For cases related to animal or insect bites, the suspected locating
26 information of the biting animal or insect, and the name and address of any known owner, shall
27 be reported.

28 (d) Animal diseases. Every veterinarian, livestock owner, veterinary diagnostic
29 laboratory director, or other person having the care of animals shall report animals having or
30 suspected of having any disease that may be caused by bioterrorism, epidemic or pandemic
31 disease, or novel and highly fatal infectious agents or biological toxins and might pose a
32 substantial risk of a significant number of human and animal fatalities or incidents of permanent
33 or long-term disability. The report shall be made in writing within twenty-four (24) hours to the
34 public health authority and shall include as much of the following information as is available: the

1 suspected locating information of the animal, the name and address of any known owner, and the
2 name and address of the reporting individual.

3 (e) Laboratories. For the purposes of this section, the definition of "health care provider"
4 shall include out-of-state medical laboratories, provided that such laboratories have agreed to the
5 reporting requirements of this state. Results must be reported by the laboratory that performs the
6 test, but an in-state laboratory that sends specimens to an out-of-state laboratory is also
7 responsible for reporting results.

8 (f) Enforcement. The public health authority may enforce the provisions of this section
9 in accordance with existing enforcement rules and regulations.

10 **30-15.10-6. Tracking – Potential public health emergencies.** – The public health
11 authority shall ascertain the existence of cases of an illness or health condition, caused by
12 bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or
13 biological toxin, that poses a substantial risk of a significant number of human fatalities or
14 incidents of permanent or long-term disability; investigate all such cases for sources of infection
15 and to ensure that they are subject to proper control measures; and define the distribution of the
16 illness or health condition. To fulfill these duties, the public health authority shall identify
17 exposed individuals as follows:

18 (1) Identification of individuals. Acting on information developed in accordance with the
19 provisions of this chapter, or other reliable information, the public health authority shall identify
20 all individuals thought to have been exposed to an illness or health condition, caused by
21 bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents or
22 biological toxins, that poses a substantial risk of significant number of human fatalities or
23 incidents of permanent or long-term disability.

24 (2) Interviewing of individuals. The public health authority shall counsel and interview
25 such individuals as appropriate to assist in the positive identification of exposed individuals and
26 develop information relating to the source and spread of the illness or health condition. Such
27 information includes the name and address (including city and county) of any person from whom
28 the illness or health condition may have been contracted and to whom the illness or health
29 condition may have spread.

30 (3) Examination of facilities or materials. The public health authority shall, for
31 examination purposes, close, evacuate, or decontaminate any facility or decontaminate or destroy
32 any material when the authority reasonably suspects that such facility or material may endanger
33 the public health.

1 (4) Enforcement. An order of the public health authority given to effectuate the purposes
2 of this section shall be enforceable immediately by the public safety authority.

3 **30-15.10-7. Information sharing.** -- (a) Whenever the public safety authority learns of a
4 case of a reportable illness or health condition, an unusual cluster, or a suspicious event, it shall
5 immediately notify the public health authority.

6 (b) Whenever the public health authority learns of a case of a reportable illness or health
7 condition, an unusual cluster, or a suspicious event that it reasonably believes has the potential to
8 be caused by bioterrorism, it must immediately notify the appropriate public safety authority,
9 tribal authorities, and federal health and public safety authorities.

10 (c) Sharing of information on reportable illnesses, health conditions, unusual clusters, or
11 suspicious events between authorized personnel shall be restricted to information necessary for
12 the treatment, control, investigation, and prevention of a public health emergency.

13 **30-15.10-8. Standards for declaration of a public health emergency.** -- A state of
14 public health emergency shall be declared by the governor if the governor finds an occurrence or
15 imminent threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic
16 disease, or novel and highly fatal infectious agents or biological toxins, that poses a substantial
17 risk of a significant number of human fatalities or incidents of permanent or long-term disability.
18 To make such a finding, the governor shall consult with the public health authority and may
19 consult with any public health and other experts as needed. Nothing in the duty of the governor to
20 consult with the public health authority or the discretion to consult with public health or other
21 experts shall be construed to limit the governor's authority to act without such consultation when
22 the situation calls for prompt and timely action.

23 **30-15.10-9. Procedures for declaration.** -- The state of public health emergency shall be
24 declared by an executive order that indicates the nature of the public health emergency, the
25 area(s) that is or may be threatened, and the conditions that have brought about the public health
26 emergency.

27 **30-15.10-10. Effect of declaration.** -- The declaration of a state of public health
28 emergency shall activate the disaster response and recovery aspects of the state, local, and inter-
29 jurisdictional disaster emergency plans in the affected political subdivision(s) or area(s). Such
30 declaration authorizes the deployment and use of any forces to which the plans apply and the use
31 or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or
32 arranged to be made available pursuant to this chapter.

33 (1) Emergency powers. During a state of public health emergency, the governor may:

1 (i) Suspend the provisions of any regulatory statute prescribing procedures for conducting
2 state business, or the orders, rules and regulations of any state agency, if strict compliance with
3 the same would prevent, hinder, or delay necessary action (including emergency purchases) by
4 the public health authority to respond to the public health emergency, and increase the health
5 threat to the population.

6 (ii) Utilize all available resources of the state government and its political subdivisions, as
7 reasonably necessary to respond to the public health emergency.

8 (iii) Transfer the direction, personnel, or functions of state departments and agencies to
9 perform or facilitate response and recovery programs regarding the public health emergency.

10 (iv) Mobilize all or any part of the organized militia into service of the state. An order
11 directing the organized militia to report for active duty shall state the purpose for which it is
12 mobilized and the objectives to be accomplished.

13 (v) Provide aid to and seek aid from other states in accordance with any interstate
14 emergency compact made with this state.

15 (2) Coordination. The public health authority shall coordinate all matters pertaining to
16 the public health emergency response of the state. The public health authority shall have primary
17 jurisdiction, responsibility, and authority for:

18 (i) Planning and executing public health emergency assessment, mitigation, preparedness,
19 response, and recovery for the state;

20 (ii) Coordinating public health emergency response between state and local authorities;

21 (iii) Collaborating with relevant federal government authorities, elected officials of other
22 states, private organizations, or private sector companies;

23 (iv) Coordinating recovery operations and mitigation initiatives subsequent to public
24 health emergencies; and

25 (v) Organizing public information activities regarding state public health emergency
26 response operations.

27 (3) Identification. After the declaration of a state of public health emergency, special
28 identification for all public health personnel working during the emergency shall be issued as
29 soon as possible. The identification shall indicate the authority of the bearer to exercise public
30 health functions and emergency powers during the state of public health emergency. Public health
31 personnel shall wear the identification in plain view.

32 **30-15.10-11. Enforcement.** -- During a state of public health emergency, the public
33 health authority may request assistance in enforcing orders pursuant to this act from the public

1 safety authority. The public safety authority may request assistance from the organized militia in
2 enforcing the orders of the public health authority.

3 **30-15.10-12. Termination of declaration. --** (a) The governor shall terminate the state
4 of public health emergency by executive order upon finding that the occurrence of an illness or
5 health condition caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal
6 infectious agents or biological toxins no longer poses a substantial risk of a significant number of
7 human fatalities or incidents or permanent or long-term disability or that the imminent threat of
8 such an occurrence has passed.

9 (b) Automatic termination. Notwithstanding any other provision of this act, a state of
10 public health emergency shall be terminated automatically thirty (30) days after its declaration
11 unless renewed by the governor under the same standards and procedures set forth in this article
12 for a declaration of a state of public health emergency. Any such renewal shall also be terminated
13 automatically after thirty (30) days unless renewed by the governor under the same standards and
14 procedures set forth in this chapter for a declaration of a state of public health emergency.

15 (c) State legislature. By a two-thirds (2/3) vote of both the house and the senate, the
16 general assembly may terminate a state of public health emergency after sixty (60) days from the
17 date of original declaration upon finding that the occurrence of an illness or health condition
18 caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents
19 or biological toxins no longer poses a substantial risk of a significant number of human fatalities
20 or incidents of permanent or long-term disability or that the imminent threat of such an
21 occurrence has passed. Such a termination by the state legislature shall override any renewal by
22 the governor.

23 (d) Content of termination order. All orders terminating a state of public health
24 emergency shall indicate the nature of the emergency, the area(s) that was threatened, and the
25 conditions that make possible the termination of the state of public health emergency.

26 **30-15.10-13. Emergency measures concerning dangerous facilities and materials. --**
27 The public health authority may exercise, for such period as the state of public health emergency
28 exists, the following powers over dangerous facilities or materials:

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

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

1 **30-15.10-14. Access to and control of facilities and property -- Generally. --** The
2 public health authority may exercise, for such period as the state of public health emergency
3 exists, the following powers concerning facilities, materials, roads, or public areas:

4 (1) Use of facilities and materials. To procure, by condemnation or otherwise, construct,
5 lease, transport, store, maintain, renovate, or distribute materials and facilities as may be
6 reasonable and necessary for emergency response, with the right to take immediate possession
7 thereof. Such materials and facilities include, but are not limited to, communication devices,
8 carriers, real estate, fuels, food, clothing, and health care facilities.

9 (2) Use of health care facilities. To compel a health care facility to provide services or the
10 use of its facility if such services or use are reasonable and necessary for emergency response.
11 The use of the health care facility may include transferring the management and supervision of
12 the health care facility to the public health authority for a limited or unlimited period of time, but
13 shall not exceed the termination of the state of public health emergency.

14 (3) Control of materials. To control, restrict, and regulate by rationing and using quotas,
15 prohibitions on shipments, price fixing, allocation or other means, the use, sale, dispensing,
16 distribution, or transportation of food, fuel, clothing and other commodities, alcoholic beverages,
17 firearms, explosives, and combustibles, as may be reasonable and necessary for emergency
18 response.

19 (4) Control of roads and public areas. (1) To prescribe routes, modes of transportation,
20 and destinations in connection with evacuation of persons or the provision of emergency services.
21 (2) To control ingress and egress to and from any stricken or threatened public area, the
22 movement of persons within the area, and the occupancy of premises therein, if such action is
23 reasonable and necessary for emergency response.

24 **30-15.10-15. Safe disposal of infectious waste. –** The public health authority may
25 exercise, for such period as the state of public health emergency exists, the following powers
26 regarding the safe disposal of infectious waste:

27 (1) Adopt measures. To adopt and enforce measures to provide for the safe disposal of
28 infectious waste as may be reasonable and necessary for emergency response. Such measures
29 may include, but are not limited to, the collection, storage, handling, destruction, treatment,
30 transportation, and disposal of infectious waste.

31 (2) Control of facilities. To compel any business or facility authorized to collect, store,
32 handle, destroy, treat, transport, and dispose of infectious waste under the laws of this state, and
33 any landfill business or other such property, to accept infectious waste, or provide services or the
34 use of the business, facility, or property if such action is reasonable and necessary for emergency

1 response. The use of the business, facility, or property may include transferring the management
2 and supervision of such business, facility, or property to the public health authority for a limited
3 or unlimited period of time, but shall not exceed the termination of the state of public health
4 emergency.

5 (3) Use of facilities. To procure, by condemnation or otherwise, any business or facility
6 authorized to collect, store, handle, destroy, treat, transport, and dispose of infectious waste under
7 the laws of this state and any landfill business or other such property as may be reasonable and
8 necessary for emergency response, with the right to take immediate possession thereof.

9 (4) Identification. All bags, boxes, or other containers for infectious waste shall be clearly
10 identified as containing infectious waste.

11 **30-15.10-16. Safe disposal of corpses.** – The public health authority may exercise, for
12 such period as the state of public health emergency exists, the following powers regarding the
13 safe disposal of corpses:

14 (1) Adopt measures. To adopt and enforce measures to provide for the safe disposal of
15 corpses as may be reasonable and necessary for emergency response. Such measures may
16 include, but are not limited to, the embalming, burial, cremation, interment, disinterment,
17 transportation, and disposal of corpses.

18 (2) Possession. To take possession or control of any corpse.

19 (3) Disposal. To order the disposal of any corpse of a person who has died of an
20 infectious disease through burial or cremation within twenty-four (24) hours after death.

21 (4) Control of facilities. To compel any business or facility authorized to embalm, bury,
22 cremate, inter, disinter, transport, and dispose of corpses under the laws of this state to accept any
23 corpse or provide the use of its business or facility if such actions are reasonable and necessary
24 for emergency response. The use of the business or facility may include transferring the
25 management and supervision of such business or facility to the public health authority for a
26 limited or unlimited period of time, but shall not exceed the termination of the state of public
27 health emergency.

28 (5) Use of facilities. To procure, by condemnation or otherwise, any business or facility
29 authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of corpses under the
30 laws of this state as may be reasonable and necessary for emergency response, with the right to
31 take immediate possession thereof.

32 (6) Labeling. Every corpse prior to disposal shall be clearly labeled with all available
33 information to identify the decedent and the circumstances of death. Any corpse of a deceased

1 person with an infectious disease shall have an external, clearly visible tag indicating that the
2 corpse is infected and, if known, the infectious disease.

3 (7) Identification. Every person in charge of disposing of any corpse shall maintain a
4 written record of each corpse and all available information to identify the decedent and the
5 circumstances of death and disposal. If a corpse cannot be identified, prior to disposal a qualified
6 person shall, to the extent possible, take fingerprints and one (1) or more photographs of the
7 corpse, and collect a DNA specimen. All information gathered under this paragraph shall be
8 promptly forwarded to the department of health.

9 **30-15.10-17. Control of health care supplies.** -- (a) Procurement. The public health
10 authority may purchase and distribute anti-toxins, serums, vaccines, immunizing agents,
11 antibiotics, and other pharmaceutical agents or medical supplies that it deems advisable in the
12 interest of preparing for or controlling a public health emergency, without any additional
13 legislative authorization.

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

22 (c) Distribution. During a state of public health emergency, the public health authority
23 may procure, store, or distribute any anti-toxins, serums, vaccines, immunizing agents,
24 antibiotics, and other pharmaceutical agents or medical supplies located within the state as may
25 be reasonable and necessary for emergency response, with the right to take immediate possession
26 thereof. If a public health emergency simultaneously affects more than one (1) state, nothing in
27 this section shall be construed to allow the public health authority to obtain anti-toxins, serums,
28 vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies for
29 the primary purpose of hoarding such items or preventing their fair and equitable distribution
30 among affected states.

31 **30-15.10-18. Compensation.** -- The state shall pay just compensation to the owner of any
32 facilities or materials that are lawfully taken or appropriated by a public health authority for its
33 temporary or permanent use under this chapter according to the procedures and standards set forth
34 in this chapter. Compensation shall not be provided for facilities or materials that are closed,

1 evacuated, decontaminated, or destroyed when there is reasonable cause to believe that they may
2 endanger the public health pursuant to the provisions of this chapter.

3 **30-15.10-19. Destruction of property. --** To the extent practicable consistent with the
4 protection of public health, prior to the destruction of any property under this chapter, the public
5 health authority shall institute appropriate civil proceedings against the property to be destroyed
6 in accordance with the existing laws and rules of the courts of this state or any such rules that
7 may be developed by the courts for use during a state of public health emergency. Any property
8 acquired by the public health authority through such proceedings shall, after entry of the decree,
9 be disposed of by destruction as the court may direct.

10 **30-15.10-20. Control of individuals during state of public health emergency. --**
11 During a state of public health emergency, the public health authority shall use every available
12 means to prevent the transmission of infectious disease and to ensure that all cases of infectious
13 disease are subject to proper control and treatment.

14 **30-15.10-21. Mandatory medical examinations. --** The public health authority may
15 exercise, for such period as the state of public health emergency exists, the following emergency
16 powers over persons:

17 (1) Individual examination or testing. To compel a person to submit to a physical
18 examination and/or testing as necessary to diagnose or treat the person.

19 (i) The medical examination and/or testing may be performed by any qualified person
20 authorized by the public health authority.

21 (ii) The medical examination and/or testing must not be reasonably likely to result in
22 serious harm to the affected individual.

23 (iii) The medical examination and/or testing shall be performed immediately upon the
24 order of the public health authority without resort to judicial or quasi-judicial authority.

25 (iv) Any person refusing to submit to the medical examination and/or testing is liable for
26 a misdemeanor. If the public health authority is uncertain whether a person who refuses to
27 undergo medical examination and/or testing may have been exposed to an infectious disease or
28 otherwise poses a danger to public health, the public health authority may subject the individual
29 to isolation or quarantine as provided in this chapter.

30 (2) Health care provider assistance. To require any physician or other health care provider
31 to perform the medical examination and/or testing. Any person refusing to perform a medical
32 examination or test as authorized herein shall be liable for a misdemeanor.

33 (3) Enforcement. An order of the public health authority given to effectuate the purposes
34 of this subsection shall be immediately enforceable by any peace officer.

1 **30-15.10-22. Isolation and quarantine.** -- (a) State policy and powers. It is the policy of
2 the state that the individual dignity of any person isolated or quarantined during a state of public
3 health emergency shall be respected at all times and upon all occasions. The needs of persons
4 isolated or quarantined shall be addressed in a systematic and competent fashion. To the extent
5 possible, the premises in which persons are isolated or quarantined shall be maintained in safe
6 and hygienic manners, designed to minimize the likelihood of further transmission of infection or
7 other harm to persons subject to isolation or quarantine. Adequate food, clothing, medication, and
8 other necessities, and competent medical care shall be provided. Consistent with this policy, the
9 public health authority may exercise, for such period as the state of public health emergency
10 exists, the following emergency powers over persons:

11 (1) To establish and maintain places of isolation and quarantine; and

12 (2) To require isolation or quarantine of any person by the least restrictive means
13 necessary to protect the public health. All reasonable means shall be taken to prevent the
14 transmission of infection among the isolated or quarantined individuals.

15 (b) Individual cooperation. A person subject to isolation or quarantine shall obey the
16 public health authority's rules and orders, shall not go beyond the isolation or quarantine
17 premises, and shall not put himself or herself in contact with any person not subject to isolation or
18 quarantine other than a physician or other health care provider, public health authority, or person
19 authorized to enter an isolation or quarantine premises by the public health authority. Failure to
20 obey these provisions shall constitute a misdemeanor.

21 (c) Unauthorized entry. No person, other than a person authorized by the public health
22 authority, shall enter an isolation or quarantine premises. If any person enters an isolation or
23 quarantine premises without permission of the public health authority, that person shall be liable
24 for a misdemeanor. If, by reason of an unauthorized entry into an isolation or quarantine
25 premises, the person poses a danger to public health, he or she, may be subject to isolation or
26 quarantine pursuant to the provisions of this chapter.

27 (d) Termination. Isolation or quarantine of any person shall be terminated when the
28 public health authority determines that such isolation or quarantine of such person is no longer
29 necessary to protect the public health.

30 (e) Due process.

31 (1) Before isolating or quarantining a person, the public health authority shall obtain a
32 written, ex parte order from a court of this state authorizing such action. The court shall grant
33 such order upon finding that probable cause exists to believe isolation or quarantine is warranted
34 pursuant to the provisions of this act. A copy of the authorizing order shall be given to the person

1 isolated or quarantined, along with notification that the person has a right to a hearing under this
2 paragraph.

3 (2) Notwithstanding the preceding subparagraph, the public health authority may isolate
4 or quarantine a person without first obtaining a written, ex parte order from the court if any delay
5 in the isolation or quarantine of the person would pose an immediate threat to the public health.
6 Following such isolation or quarantine, the public health authority shall promptly obtain a
7 written, ex parte order from the court authorizing the isolation or quarantine.

8 (3) A person isolated or quarantined pursuant to the provisions of subparagraphs (1) or
9 (2) herein shall have the right to a court hearing to contest the ex parte order. If such person or his
10 or her representative requests a hearing, the hearing shall be held within seventy-two (72) hours
11 of receipt of such request, excluding Saturdays, Sundays and legal holidays. The request must be
12 in writing. A request for a hearing shall not stay the order of isolation or quarantine. At the
13 hearing, the public health authority must show that the isolation or quarantine is warranted
14 pursuant to the provisions of this section.

15 (4) On or after thirty (30) days following a hearing on the ex parte order or such hearing
16 as is provided for in this subparagraph, a person isolated or quarantined pursuant to the provisions
17 of this section may request in writing a court hearing to contest his or her continued isolation or
18 quarantine. The hearing shall be held within seventy-two (72) hours of receipt of such request,
19 excluding Saturdays, Sundays and legal holidays. A request for a hearing shall not alter the order
20 of isolation or quarantine. At the hearing, the public health authority must show that continuation
21 of the isolation or quarantine is warranted pursuant to the provisions of this section.

22 (5) A person isolated or quarantined pursuant to the provisions of this section may
23 request a hearing in the courts of this state for remedies regarding his or her treatment and the
24 terms and conditions of such quarantine or isolation. Upon receiving a request for either type of
25 hearing described in this subparagraph, the court shall fix a date for a hearing. The hearing shall
26 take place within ten (10) days of the receipt of the request by the court. The request for a hearing
27 shall not alter the order of isolation or quarantine.

28 (6) If, upon a hearing, the court finds that the isolation or quarantine of the individual is
29 not warranted under the provisions of this section, then the person shall be released from isolation
30 or quarantine. If the court finds that the isolation or quarantine of the individual is not in
31 compliance with the provisions of paragraph (a), the court may then fashion remedies appropriate
32 to the circumstances of the state of public health emergency and in keeping with the provisions of
33 this act.

34 (7) Judicial decisions shall be based upon clear and convincing evidence, and a written

1 record of the disposition of the case shall be made and retained. The petitioner shall have the right
2 to be represented by counsel or other lawful representative. The manner in which the request for a
3 hearing is filed and acted upon will be in accordance with the existing laws and rules of the courts
4 of this state or any such rules that are developed by the courts for use during a state of public
5 health emergency.

6 **30-15.10-23. Vaccination and treatment.** -- The public health authority may exercise,
7 for such period as the state of public health emergency exists, the following emergency powers
8 over persons:

9 (1) In general. To compel a person to be vaccinated and/or treated for an infectious
10 disease.

11 (i) Vaccination may be performed by any qualified person authorized by the public health
12 authority.

13 (ii) The vaccine shall not be given if the public health authority has reason to know that a
14 particular individual is likely to suffer from serious harm from the vaccination.

15 (iii) Treatment may be performed by any qualified person authorized by the public health
16 authority.

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

19 (2) Refusal. Individuals refusing to be vaccinated or treated shall be liable for a
20 misdemeanor. If, by reason of refusal of vaccination or treatment, the person poses a danger to
21 the public health, he or she may be subject to isolation or quarantine pursuant to the provisions of
22 this chapter.

23 (3) Enforcement. An order of the public health authority given to effectuate the purposes
24 of this section shall be immediately enforceable by any peace officer.

25 **30-15.10-24. Collection of laboratory specimens; performance of tests.** -- The public
26 health authority may, for such period as the state of public health emergency exists, collect
27 specimens and perform tests on any person or animal, living or deceased, and acquire any
28 previously collected specimens or test results that are reasonable and necessary for emergency
29 response.

30 (1) Marking. All specimens shall be clearly marked.

31 (2) Contamination. Specimen collection, handling, storage, and transport to the testing
32 site shall be performed in a manner that will reasonably preclude specimen contamination or
33 adulteration and provide for the safe collection, storage, handling, and transport of such
34 specimen.

1 (3) Chain of custody. Any person authorized to collect specimens or perform tests shall
2 use chain of custody procedures to ensure proper record keeping, handling, labeling, and
3 identification of specimens to be tested. This requirement applies to all specimens, including
4 specimens collected using on-site testing kits.

5 (4) Criminal investigation. Recognizing that, during a state of public health emergency,
6 any specimen collected or test performed may be evidence in a criminal investigation, any
7 business, facility, or agency authorized to collect specimens or perform tests shall provide such
8 support as is reasonable and necessary to aid in a relevant criminal investigation.

9 **30-15.10-25 Access and disclosure of patient records.** -- (a) Access to patient records.
10 Access to protected health information of patients under the isolation, quarantine, or care of the
11 public health authority shall be limited to those persons having a legitimate need to acquire or use
12 the information for purposes of providing treatment or care to the individual who is the subject of
13 the health information, conducting epidemiologic research, or investigating the causes of
14 transmission.

15 (b) Disclosure of patient records. Protected health information held by the public health
16 authority shall not be disclosed to others without individual specific informed consent, except for
17 disclosures made:

18 (1) Directly to the individual;

19 (2) To the individual's immediate family members or life partners;

20 (3) To appropriate federal agencies or authorities;

21 (4) To health care personnel where needed to protect the health or life of the individual
22 who is the subject of the information;

23 (5) Pursuant to a court order or executive order of the governor to avert a clear danger to
24 an individual or the public health; or

25 (6) To identify a deceased individual or determine the manner or cause of death.

26 **30-15.10-26 Licensing and appointment of health personnel.** -- The public health
27 authority may exercise, for such period as the state of public health emergency exists, the
28 following emergency powers regarding licensing of health personnel.

29 (1) Health care providers from other jurisdictions. To appoint and prescribe the duties of
30 such out-of-state emergency health care providers as may be reasonable and necessary for
31 emergency response.

32 (i) The appointment of out-of-state emergency health care providers pursuant to this
33 section may be for a limited or unlimited time, but shall not exceed the termination of the state of
34 public health emergency. The public health authority may terminate the out-of-state appointments

1 at any time or for any reason provided that any such termination will not jeopardize the health,
2 safety, and welfare of the people of this state.

3 (ii) The public health authority may waive any or all licensing requirements, permits, or
4 fees required by the state code and applicable orders, rules, or regulations for health care
5 providers from other jurisdictions to practice in this state.

6 (iii) Any out-of-state emergency health care provider appointed pursuant to this section
7 shall not be held liable for any civil damages as a result of medical care or treatment related to the
8 emergency response unless such damages result from providing, or failing to provide, medical
9 care or treatment under circumstances demonstrating a reckless disregard for the consequences so
10 as to affect the life or health of the patient.

11 (2) Personnel to perform duties of medical examiner or coroner. To authorize the medical
12 examiner or coroner to appoint and prescribe the duties of such emergency assistant medical
13 examiners or coroners as may be required for the proper performance of the duties of the office.

14 (i) The appointment of emergency assistant medical examiners or coroners pursuant to
15 this section may be for a limited or unlimited time, but shall not exceed the termination of the
16 state of public health emergency. The medical examiner or coroner may terminate such
17 emergency appointments at any time or for any reason, provided that any such termination will
18 not impede the performance of the duties of the office.

19 (ii) The medical examiner or coroner may waive any or all licensing requirements,
20 permits, or fees required by the state code and applicable orders, rules, or regulations for the
21 performance of these duties.

22 (iii) Any emergency assistant medical examiner or coroner appointed pursuant to this
23 section and acting without malice and within the scope of the prescribed duties shall be immune
24 from civil liability in the performance of such duties.

25 **30-15.10-27. Dissemination of information.** -- The public health authority shall inform
26 the people of the state when a state of public health emergency has been declared or terminated,
27 how to protect themselves, and what actions are being taken to control the emergency.

28 (1) Means of dissemination. The public health authority shall provide information by all
29 available and reasonable means calculated to bring the information promptly to the attention of
30 the general public.

31 (2) Languages. If the public health authority has reason to believe there are people of the
32 state who lack sufficient skills in English to understand the information, the public health
33 authority shall make reasonable efforts to provide the information in the primary languages of
34 those people as well as in English.

1 (3) Accessibility. The provision of information shall be made in a manner accessible to
2 individuals with disabilities.

3 **30-15.10-28. Provision of access to mental health support personnel.** -- During and
4 after a state of public health emergency, the public health authority shall provide information
5 about and referrals to mental health support personnel to address psychological responses to the
6 public health emergency.

7 **30-15.10-29 Public health emergency planning commission.** -- The governor shall
8 appoint a public health emergency planning commission (“the Commission”), consisting of the
9 state directors, or their designees, of agencies the governor deems relevant to public health
10 emergency preparedness, and any other persons chosen by the governor. The governor shall
11 designate the chair of the commission.

12 **30-15.10-30. Public health emergency plan.** -- (a) Content. The commission shall,
13 within six (6) months of its appointment, deliver to the governor a plan for responding to a public
14 health emergency, that includes provisions of the following:

15 (1) A means notifying and communicating with the population during a state of public
16 health emergency in compliance with this act;

17 (2) Centralized coordination of resources, manpower, and services, including
18 coordination of responses by state, local, and federal agencies;

19 (3) The location, procurement, storage, transportation, maintenance, and distribution of
20 essential materials, including medical supplies, drugs, vaccines, food, shelter, and beds;

21 (4) The continued, effective operation of the judicial system including, if deemed
22 necessary, the identification and training of personnel to serve as emergency judges regarding
23 matters of isolation and quarantine as described in this act;

24 (5) The method of evacuating populations, and housing and feeding the evacuated
25 populations;

26 (6) The identification and training of health care providers to diagnose and treat persons
27 with infectious diseases;

28 (7) Guidelines for the vaccination of persons, in compliance with the provisions of this
29 act;

30 (8) Guidelines for the treatment of persons who have been exposed to or who are infected
31 with diseases or health conditions caused by bioterrorism, epidemic or pandemic disease, or novel
32 and highly fatal infectious agents or biological toxins, that pose a substantial risk of a significant
33 number of fatalities or incidents of permanent or long-term disability. The guidelines should
34 cover, but not be limited to, the following diseases: anthrax; botulism; smallpox; plague;

1 tularemia; and viral hemorrhagic fevers;

2 (9) Guidelines for the safe disposal of corpses, in compliance with the provisions of this
3 chapter;

4 (10) Guidelines for the safe disposal of infectious waste, in compliance with the
5 provisions of this chapter;

6 (11) Guidelines for the safe and effective management of persons isolated, quarantined,
7 vaccinated, or treated during a state of public health emergency;

8 (12) Tracking the source and outcomes of infected persons;

9 (13) Ensuring that each city and county within the state identifies the following:

10 (i) sites where persons can be isolated or quarantined, with such sites complying with the
11 provisions of this chapter regarding the least restrictive means for isolation and quarantine, and
12 the requirements for the safety, health and maintenance of personal dignity of those isolated or
13 quarantined;

14 (ii) sites where medical supplies, food, and other essentials can be distributed to the
15 population;

16 (iii) sites where emergency workers can be housed and fed;

17 (iv) routes and means of transportation of people and materials;

18 (14) Coordination with other states and the federal government;

19 (15) Taking into account cultural norms, values and traditions that may be relevant;

20 (16) Distribution of this plan and guidelines to those who will be responsible for
21 implementing the plan; and

22 (17) Other measures necessary to carry out the purposes of this chapter.

23 (b) Review. The commission shall review its plan for responding to a public health
24 emergency every two (2) years.

25 **30-15.10-31. Titles.** – For the purposes of this chapter, titles and subtitles of sections and
26 subsections are instructive, but not binding.

27 **30-15.10-32. Rules and regulations.** – The public health authority is authorized to
28 promulgate and implement such rules and regulations as are reasonable and necessary to
29 implement and effectuate the provisions of this chapter. The public health authority shall have
30 the power to enforce the provisions of this chapter through the imposition of fines and penalties,
31 the issuance of orders, and such other remedies as are provided by law, but nothing in this section
32 shall be construed to limit specific enforcement powers enumerated in this chapter.

33 **30-15.10-33. Financing and expenses.** – (a) Transfer of funds. The governor may
34 transfer from any fund available to the governor in the state treasury such sums as may be

1 necessary to meet the public health emergency.

2 (b) Repayment. Monies so transferred shall be repaid to the fund from which they were
3 transferred when monies become available for that purpose, by legislative appropriation or
4 otherwise.

5 (c) Conditions. A transfer of funds by the governor under the provisions of this section
6 may be made only when one (1) or more of the following conditions exist:

7 (1) No appropriation or other authorization is available to meet the public health
8 emergency.

9 (2) An appropriation is insufficient to meet the public health emergency.

10 (3) Federal monies available for such a public health emergency require the use of state
11 or other public monies.

12 (d) Expenses. All expenses incurred by the state during a state of public health
13 emergency shall be subject to the following limitations:

14 (1) No expense shall be incurred against the monies authorized under this section without
15 the approval of the governor;

16 (2) The aggregate amount of all expenses incurred under the provisions of this section
17 shall not exceed five million dollars (\$5,000,000) for any fiscal year.

18 (3) Monies authorized for a state of public health emergency in prior fiscal years may be
19 used in subsequent fiscal years only for the public health emergency for which they were
20 authorized. Monies authorized for a public health emergency in prior fiscal years, and expended
21 in subsequent fiscal years for the public health emergency for which they were authorized, apply
22 toward the five million dollars (\$5,000,000) expense limit for the fiscal year in which they were
23 authorized.

24 **30-15.10-34. Liability.** – (a) State immunity. Neither the state, its political subdivisions,
25 nor, except in cases of gross negligence or willful misconduct, the governor, the public health
26 authority, or any other state official referenced in this chapter, is liable for the death of or any
27 injury to persons, or damage to property, as a result of complying with or attempting to comply
28 with this chapter or any rule or regulations promulgated pursuant to this chapter.

29 (b) Private liability.

30 (1) During a state of public health emergency, any person owning or controlling real
31 estate or other premises who voluntarily and without compensation grants a license or privilege,
32 or otherwise permits the designation or use of the whole or any part or parts of such real estate or
33 premises for the purpose of sheltering persons, together with that person's successors in interest,
34 if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on

1 or about such real estate or premises under such license, privilege, or other permission, or for
2 negligently causing loss of, or damage to, the property of such person.

3 (2) During a state of public health emergency, any private person, firm or corporation and
4 employees and agents of such person, firm or corporation in the performance of a contract with,
5 and under the direction of, the state or its political subdivisions under the provisions of this
6 chapter shall not be civilly liable for causing the death of, or injury to, any person or damage to
7 any property except in the event of gross negligence or willful misconduct.

8 (3) During a state of public health emergency, any private person, firm or corporation and
9 employees and agents of such person, firm or corporation, who renders assistance or advice at the
10 request of the state or its political subdivisions under the provisions of this chapter shall not be
11 civilly liable for causing the death of, or injury to, any person or damage to any property except in
12 the event of gross negligence or willful misconduct.

13 (4) The immunities provided in this subsection shall not apply to any private person, firm
14 or corporation or employees and agents of such person, firm or corporation whose act or omission
15 caused in whole or in part the public health emergency and who would otherwise be liable
16 therefor.

17 **30-15.10-35. Compensation.** – (a) Taking. Compensation for property shall be made
18 only if private property is lawfully taken or appropriated by a public health authority for its
19 temporary or permanent use during a state of public health emergency declared by the governor
20 pursuant to this chapter.

21 (b) Actions. Any action against the state with regard to the payment of compensation
22 shall be brought in the courts of this state in accordance with existing court laws and rules, or any
23 such rules that may be developed by the courts for use during a state of public health emergency.

24 (c) Amount. The amount of compensation shall be calculated in the same manner as
25 compensation due for taking of property pursuant to nonemergency eminent domain procedures,
26 except that the amount of compensation calculated for items obtained under section 30-15.10-17
27 shall be limited to the costs incurred to produce the item.

28 **30-15.10-36. Severability.** – The provisions of this chapter are severable. If any
29 provision of this chapter or its application to any person or circumstances is held invalid in a
30 federal or state court having jurisdiction, the invalidity will not affect other provisions or
31 applications of this chapter that can be given effect without the invalid provision or application.

32 **30-15.10-37. Saving clause.** – This chapter shall not explicitly preempt other laws or
33 regulations that preserve to a greater degree the powers of the governor or public health authority,
34 provided such laws or regulations are consistent, and do not otherwise restrict or interfere with,

1 the operation or enforcement of the provisions of this chapter.

2 **30-15.10-38. Conflicting laws.** – (a) Federal supremacy. This chapter shall not restrict
3 any person from complying with federal law or regulations.

4 (b) Prior conflicting acts. In the event of a conflict between this chapter and other state or
5 local laws or regulations concerning public health powers, the provisions of this chapter apply.

6 **30-15.10-39. Reports.** – Not later than ninety (90) days after the date of the enactment of
7 this act, and every twelve (12) months thereafter, the governor shall transmit to the general
8 assembly a report that shall include:

9 (1) A description of the detection and tracking efforts made under this chapter;

10 (2) A description of the state(s) of public health emergencies declared under this chapter;

11 (3) A description of the emergency powers utilized under this chapter; and

12 (4) A description of the monies transferred and liabilities and expenses incurred under
13 this chapter.

14 SECTION 2. This act shall take effect upon passage.

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LC02611
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO MILITARY AFFAIRS AND DEFENSE -- EMERGENCY HEALTH
POWERS ACT

1 This act would establish the state emergency health powers act. This act would provide
2 the department of health with certain emergency powers in the event of a health emergency,
3 including but not limited to an act of bioterrorism.

4 This act would take effect upon passage.

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