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TITLE 20

Military and Civil Defense

Civil Defense

CHAPTER 31. Emergency Management

Subchapter V. Public Health Emergencies

§ 3131. Findings.

The State finds as follows:

- (1) Government must do more to protect the health, safety and general well-being of the general public.
- (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 bioterrorism and epidemics, require the exercise of extraordinary government functions.
- (5) Delaware 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) 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.
- (9) Guided by principles of justice, it is the duty of this State to act with fairness and tolerance towards individuals and groups.
- (10) This subchapter is necessary to protect the health and safety of the citizens of this State.

[73 Del. Laws, c. 355, § 13 \(https://legis.delaware.gov/SessionLaws?volume=73&chapter=355\);](#)

§ 3132. Definitions [For application of this section, see 85 Del. Laws, c. 253, § 23].

For purposes of this subchapter:

- (1) "Bioterrorism" is the intentional use of any microorganism, virus, infectious substance or biological product that may be engineered as a result of biotechnology or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance or biological product to cause death, disease or other biological malfunction in a human, an animal, a plant or another living organism in order to influence the conduct of government or to intimidate or coerce a civilian population.
- (2) "Chain of custody" means the methodology of tracking specimens for the purpose of maintaining control and accountability from initial collection to final disposition of the specimens and providing for accountability at each stage of collecting, handling, testing, storing and transporting the specimens and reporting test results.
- (3) "Contagious disease" means an infectious disease that can be transmitted from person to person, animal to person, or insect to person.
- (4) "Council" means the Public Health Emergency Planning Council.
- (5) "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 associates, nurse practitioners, registered and other nurses, paramedics, emergency medical or laboratory technicians, and ambulance and emergency medical workers.
- (6) "Infectious disease" is a disease caused by a living organism or other pathogen, including a fungus, bacillus, parasite, protozoan or virus. An infectious disease may or may not be transmissible from person to person, animal to person, or insect to person.
- (7) "Infectious waste" means:
- a. "Biological waste," which includes blood and blood products, excretions, exudates, secretions, suctioning and other body fluids, and waste materials saturated with blood or body fluids;
 - b. "Cultures and stocks," which includes etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer, inoculate and mix cultures, wastes from production of biologicals and serums, and discarded live and attenuated vaccines;
 - c. "Pathological waste," which includes biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, autopsy and laboratory procedures, and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals, but does not include teeth or formaldehyde or other preservative agents; and
 - d. "Sharps," which includes needles, IV tubing with needles attached, scalpel blades, lancets, breakable glass tubes, and syringes that have been removed from their original sterile containers.
- (8) "Isolation" is the physical separation and confinement of an individual or group of individuals who are infected or reasonably believed to be infected with a contagious or possibly contagious disease from nonisolated individuals to prevent or limit the transmission of the disease to nonisolated individuals.
- (9) "Mental health support personnel" includes, but is not limited to, psychiatrists, psychologists, social workers and volunteer crisis counseling groups.
- (10) "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 about which there is a reasonable basis to believe such information could be utilized (either alone or with other information that is or should reasonably be known to be available to predictable recipients of such information) to reveal the identity of that individual.
- (11) "Public health authority" means the Secretary of Health and Social Services or such person as the Secretary may designate with the Governor's consent.
- (12) A "public health emergency" is an occurrence or imminent threat of an illness or health condition that:

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

1. Bioterrorism;
2. The appearance of a novel or previously controlled or eradicated infectious agent or biological toxin; or
3. A chemical attack or accidental release;

and

b. Poses a high probability of any of the following harms:

1. A large number of deaths in the affected population;
2. A large number of serious or long-term disabilities in the affected population; or
3. Widespread exposure to an infectious or toxic agent that poses a significant risk of substantial future harm to a large number of people in the affected population.

(13) "Public safety authority" means the Director of the Delaware Emergency Management Agency or such other person as the Governor may designate.

(14) "Quarantine" is the physical separation and confinement of an individual or group of individuals who are or may have been exposed to a contagious or possibly contagious disease and who do not show signs or symptoms of a contagious disease from nonquarantined individuals to prevent or limit the transmission of the disease to nonquarantined individuals.

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

(16) "Tests" includes, but is not limited to, any diagnostic or investigative analyses necessary to prevent the spread of disease or protect the public's health, safety and welfare.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>); 70 Del. Laws, c. 186, § 1 (<https://legis.delaware.gov/SessionLaws?volume=70&chapter=186>); 84 Del. Laws, c. 213, § 1 (<https://legis.delaware.gov/SessionLaws?volume=84&chapter=213>); 85 Del. Laws, c. 170, § 1 (<https://legis.delaware.gov/SessionLaws?volume=85&chapter=170>); 85 Del. Laws, c. 253, § 16 (<https://legis.delaware.gov/SessionLaws?volume=85&chapter=253>);

§ 3133. Control of health-care supplies.

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

(b) Definitions for the purpose of this section only:

(1) "Delivers" means to hand out prepackaged and labeled medications to end users at the direction of the Public Health Authority.

(2) [Repealed.]

(3) "Unlicensed person" means an individual who is not a licensed health-care professional and has successfully completed in-service training, approved by the Board of Pharmacy, on the State or Federal Stockpile.

(c) Any licensed health-care professional or unlicensed person who, at the direction of the Public Health Authority, prior to, during or after an impending, probable or actual public health threat or a declared public health emergency or state of emergency, delivers, or assists in the delivery of medical supplies or prescription or nonprescription medications to individuals, other than by injection, and provided that the medication is in the original container and properly labeled,

shall be exempt from the licensing statutes and regulations for health-care professionals and shall be considered a public employee under §§ 4001 and 4002 of Title 10. The Division of Public Health shall position a licensed health-care professional on-site to supervise the delivery process to individuals if a licensed health-care professional is available.

(d) Each individual will complete a prescreening assessment on an annual basis that will screen for contraindications to the medications in the State or Federal Stockpile. The assessment will be developed by the Division of Public Health and approved by the Board of Pharmacy.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>); 76 Del. Laws, c. 168, § 1 (<https://legis.delaware.gov/SessionLaws?volume=76&chapter=168>); 80 Del. Laws, c. 390, § 1 (<https://legis.delaware.gov/SessionLaws?volume=80&chapter=390>);

§ 3134. Destruction of property.

To the extent practicable and consistent with the protection of public health, prior to the destruction of any property under this subchapter, the public safety authority or public health authority shall institute appropriate civil proceedings against the property to be destroyed in accordance with the existing laws and rules of the Superior Court or any such rules that may be developed by the Superior Court for use during a state of emergency. Any property acquired by the public safety authority or public health authority through such proceedings shall, after entry of the decree, be disposed of by destruction as the Court may direct.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>);

§ 3135. Medical examination and testing during public health emergency.

During a state of emergency, the following rules shall apply:

- (1) Medical examinations or tests may be performed by any qualified person authorized to do so by the public safety authority.
- (2) Medical examinations or tests must not be such as are reasonably likely to lead to serious injury to the affected individual.
- (3) The public safety authority may isolate or quarantine, subject to § 3136 of this title, any person whose refusal of medical examination or testing results in uncertainty regarding whether the person has been exposed to or is infected with a contagious or possibly contagious disease or otherwise poses a danger to public health.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>); 70 Del. Laws, c. 186, § 1 (<https://legis.delaware.gov/SessionLaws?volume=70&chapter=186>);

§ 3136. Isolation and quarantine during public health emergency.

The following isolation and quarantine procedures shall be in effect during a state of emergency:

- (1) *General authority.* — The public safety authority may exercise, for such period as the state of emergency exists, the following emergency powers over persons:
 - a. To establish and maintain places of isolation and quarantine;
 - b. To isolate and quarantine individuals subject to the procedures enumerated in this section; and
 - c. To require isolation or quarantine of any person by the least restrictive means necessary to protect the public health, subject to the other provisions of this section. All reasonable means shall be taken to prevent the transmission of infection among the isolated or quarantined individuals.
- (2) *Standard for quarantine or isolation.* — a. Persons shall be isolated or quarantined if it is determined by clear and convincing evidence that the person to be isolated or quarantined poses a significant risk of transmitting a disease to others with serious consequences. A person's refusal to accept medical examination, vaccination or treatment

pursuant to §§ 3135 and 3137 of this title shall constitute prima facie evidence that said person should be quarantined or isolated.

b. Isolation or quarantine of any person shall be terminated when such person no longer poses a significant risk of transmitting a disease to others with serious consequences.

(3) *Character of isolation and quarantine area.* — a. To the extent possible, the premises in which persons are isolated or quarantined shall be maintained in safe and hygienic manners designed to minimize the likelihood of further transmission of infection or other harm to persons subject to isolation or quarantine. Adequate food, clothing, medication and other necessities and competent medical care shall be provided.

b. Isolated individuals must be confined separately from quarantined individuals.

c. The health status of isolated and quarantined individuals must be monitored regularly to determine if their status should change. If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a contagious or possibly contagious disease, the individual must promptly be moved to isolation.

(4) *Control of quarantine and isolation area.* — a. A person subject to isolation or quarantine shall obey the public safety authority's rules and orders, shall not go beyond the isolation or quarantine premises, and shall not put oneself in contact with any person not subject to isolation or quarantine other than a physician or other health care provider, public health authority, or person authorized to enter isolation or quarantine premises by the public safety authority. Any person entering isolation or quarantine premises may be isolated or quarantined.

b. No person, other than a person authorized by the public safety authority, shall enter isolation or quarantine premises. If by reason of an unauthorized entry into an isolation or quarantine premises, the person poses a danger to public health, that person may be subject to isolation or quarantine pursuant to the provisions of this section.

(5) *Procedures for isolation and quarantine.* — The following procedures shall protect the due process rights of individuals:

a. The public safety authority shall petition the Superior Court for an order authorizing the isolation or quarantine of an individual or groups of individuals.

b. A petition pursuant to paragraph (5)a. of this section shall specify the following:

1. The identity of the individual or group of individuals subject to isolation or quarantine;
2. The premises subject to isolation or quarantine;
3. The date and time at which the public safety authority request isolation or quarantine to commence;
4. The suspected contagious disease, if known;
5. A statement of compliance with the conditions and principles for isolation and quarantine; and
6. A statement of the basis upon which isolation or quarantine is justified.
7. A statement of what effort, if any, has been made to give notice of the hearing to the individual or group of individuals to be isolated or quarantined, or the reason supporting the claim that notice should not be required.

c. *Ex parte orders.* — Before isolating or quarantining a person, the public safety authority shall obtain a written order, which may be an ex parte order, from the Superior Court authorizing such action. An order, which may be an ex parte order, shall be requested as part of a petition filed in compliance with paragraphs (5)a. and b. of this section. The Court shall grant an order, which may be an ex parte order, upon finding by clear and convincing evidence that isolation or quarantine is warranted pursuant to the provisions of this subchapter. A copy of the authorizing order shall be given to the person ordered to be isolated or quarantined, along with notification that the person has a right to a hearing under paragraph (5)e. of this section.

d. *Temporary quarantine or isolation pending filing of a petition.* — Notwithstanding the preceding paragraphs, the public safety authority may isolate or quarantine a person without first obtaining a written order, which may be an ex parte order, from the Court if a physician determines that any delay in the isolation or quarantine of the person would pose an immediate and severe danger to the public health. Following such isolation or quarantine, the public health authority shall file a petition pursuant to paragraphs (5)a. through c. of this section within 24 hours. In addition, if the public safety authority exercises its powers under this paragraph (5), it must provide a written directive to the individuals or groups under temporary quarantine or isolation indicating the identities of the individuals or groups subject to the directive, the premises subject to isolation or quarantine, the date and time that the directive commences, the suspected contagious disease (if known), and a copy of § 3138 of this title.

e. *Speedy hearing.* — The Court shall grant a hearing within 72 hours of the filing of a petition when an individual has been isolated or quarantined pursuant to paragraph (5)c. or d. of this section.

f. *Consolidation of claims.* — The Court may order consolidation of individual claims into a group 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, giving due regard to the rights of affected individuals.

(6) *Relief for isolated and quarantined persons.* — a. On or after 10 days following a hearing as is provided for in paragraph (5)e. of this section, a person isolated or quarantined pursuant to the provisions of this section may request in writing a Court hearing to contest the person's continued isolation or quarantine. The hearing shall be held within 72 hours of receipt of such request, excluding Saturdays, Sundays and legal holidays. A request for a hearing shall not alter the order of isolation or quarantine. At the hearing, the public health authority must show by clear and convincing evidence that continuation of the isolation or quarantine is warranted because the person poses a significant risk of transmitting a disease to others with serious consequences.

b. A person isolated or quarantined pursuant to the provisions of this section may request a hearing in the Superior Court for remedies regarding the person's treatment and the terms and conditions of such quarantine or isolation. Upon receiving a request for either type of hearing described in this paragraph, the Court shall fix a date for a hearing. The hearing shall take place within 10 days of the receipt of the request by the Court. The request for a hearing shall not alter the order of isolation or quarantine.

c. If upon a hearing, the Court finds that the isolation or quarantine of the individual is not warranted under the provisions of this section, then the person shall be immediately released from isolation or quarantine. If the Court finds that the isolation or quarantine of the individual is not in compliance with the provisions of paragraph (3) of this section, the Court may then fashion remedies appropriate to the circumstances of the state of public health emergency and in keeping with the provisions of this section.

d. No person shall be permanently terminated from employment by a Delaware employer as a result of being isolated or quarantined pursuant to this section. However, this paragraph shall not apply to a person who has been quarantined as a result of refusing to comply with an examination, treatment or vaccination program, nor shall it apply to a person whose conduct caused the state of emergency that necessitated the isolation or quarantine.

(7) *Additional due process protections.* — a. A record of proceedings before the Court shall be made and retained for at least 3 years.

b. The petitioner shall have the right to be represented by counsel or other lawful representative, and the State shall provide counsel to indigent persons against whom proceedings are initiated pursuant to this subchapter.

c. The manner in which the request for a hearing is filed and acted upon will be in accordance with the existing laws and rules of the Superior Court or any such rules that are developed by the Court for use during a state of emergency, provided that hearings should be held by any means that will allow all necessary persons to participate in the event that a public health emergency makes personal appearances impractical.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>); 70 Del. Laws, c. 186, § 1 (<https://legis.delaware.gov/SessionLaws?volume=70&chapter=186>); 84 Del. Laws, c. 42, § 1 (<https://legis.delaware.gov/SessionLaws?volume=84&chapter=42>); 85 Del. Laws, c. 170, § 1 (<https://legis.delaware.gov/SessionLaws?volume=85&chapter=170>);

§ 3137. Vaccination and treatment during public health emergency.

During a state of emergency, the public health authority may exercise, for such period as the state of emergency exists, the following emergency powers:

(1) To direct vaccination of persons as protection against infectious disease and to prevent the spread of contagious or possibly contagious disease.

a. Vaccination may be performed by any qualified person authorized to do so by the public health authority.

b. A vaccine to be administered must not be such as is reasonably likely to lead to serious harm to the affected individual.

c. To prevent the spread of contagious or possibly contagious disease, the public health authority may isolate or quarantine, subject to § 3136 of this title, persons who are unable or unwilling for reasons of health, religion or conscience to undergo vaccination pursuant to this section.

(2) To direct treatment of persons exposed to or infected with disease.

a. Treatment may be administered by any qualified person authorized to do so by the public health authority.

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

c. To prevent the spread of contagious or possibly contagious disease, the public health authority may isolate or quarantine, subject to § 3136 of this title, persons who are unable or unwilling for reasons of health, religion or conscience to undergo treatment pursuant to this section.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>); 85 Del. Laws, c. 170, § 1 (<https://legis.delaware.gov/SessionLaws?volume=85&chapter=170>);

§ 3138. Collection of laboratory specimens; performance of tests during public health emergency.

During a state of emergency, the public health authority may, for such period as the state of emergency exists, collect 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 for emergency response.

(1) All specimens shall be clearly marked.

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

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

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

(5) To prevent the spread of contagious or possibly contagious disease, the public health authority may isolate or quarantine, subject to § 3136 of this title, persons who are unable or unwilling for reasons of health, religion or conscience to undergo specimen collection or testing pursuant to this section.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>);

§ 3139. Confidentiality of medical information.

Protected health information gathered during an emergency shall be subject to subchapter II of Chapter 12 of Title 16.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>);

§ 3140. Licensing an appointment of health personnel during public health emergency.

During a state of emergency, the public health authority may exercise, for such period as the state of emergency exists, 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;

(2) To appoint and prescribe the duties of such out-of-state emergency health care providers as may be reasonable and necessary for emergency response.

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

b. The public health authority may waive any or all licensing requirements, permits or fees required by the state Code and applicable orders, rules or regulations for health care providers from other jurisdictions to practice in this State so long as health care providers from other jurisdictions possess the licensing, permit or fee requirement for health care providers in their jurisdictions.

c. Any out-of-state emergency health care provider appointed pursuant to this section shall be considered a public employee under §§ 4001-4002 of Title 10;

(3) To authorize the medical examiner to appoint and prescribe the duties of such emergency assistant medical examiners as may be required for the proper performance of the duties of the office.

a. The appointment of emergency assistant medical examiners pursuant to this section may be for a limited or unlimited time, but shall not exceed the termination of the state of emergency.

b. The medical examiner may waive any or all licensing requirements, permits or fees required by the state Code and applicable orders, rules or regulations for the performance of these duties so long as the appointed emergency assistant medical examiner is competent to properly perform the duties of the office. In addition, if from another jurisdiction, the appointed emergency assistant medical examiner must possess the licensing, permit or fee requirement for medical examiners or assistant medical examiners in that jurisdiction.

c. Any emergency assistant medical examiner appointed pursuant to this section shall be considered a public employee under §§ 4001-4002 of Title 10.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>); 70 Del. Laws, c. 186, § 1 (<https://legis.delaware.gov/SessionLaws?volume=70&chapter=186>);

§ 3141. Public Health Emergency Planning Council.

(a) The Public Health Emergency Planning Council is established.

(b) The Council consists of the following voting members, or a designee appointed by a member serving by virtue of position:

- (1) The Governor.
- (2) The Speaker of the House of Representatives.
- (3) The President Pro Tempore of the Senate.
- (4) The Secretary of the Department of Health and Social Services.
- (5) The Secretary of the Department of Safety and Homeland Security.
- (6) The Secretary of the Department of Natural Resources and Environmental Control.
- (7) The Secretary of the Department of Agriculture.
- (8) The Adjutant General of the Delaware National Guard.
- (9) The Chief Justice of the Delaware Supreme Court.
- (10) The Director of the Delaware Emergency Management Agency.
- (11) The Governor's Homeland Security Advisor.
- (12) A representative of the Delaware medical community, to be appointed by the Governor, for a term of 2 years.
- (13) The Attorney General.
- (14) [Repealed].
- (15) The Minority Leader of the Senate.
- (16) The Minority Leader of the House.
- (17) A physician who is board certified in infectious disease and licensed to practice in this State, to be appointed by the Governor, for a term of 2 years.
- (18) A representative from a major Delaware hospital system, to be appointed by the Governor from a slate of nominees to be provided by the Delaware Healthcare Association, for a term of 2 years.
- (19) The Director of the Office of Management and Budget.

(c) The Secretary of the Department of Health and Social Services or the Secretary's designee shall serve as the Chair of the Council. The Governor shall also appoint representatives of affected constituencies, including the medical community, local health departments and governments, local police, fire and emergency medical service agencies, community health centers, and volunteer organizations as ex officio members of the Council.

(d) The number of members who must be present at a Council meeting to have a quorum and conduct official business is the majority of voting members. Counting for quorum does not include voting member positions that are vacant.

(e) An individual appointed to fill a vacancy on the Council holds office for the remainder of the term of the former member.

(f) The Council must meet at least 1 time per year.

(g) (1) The Council must meet within 15 days of the initiation of a state of emergency due to a public health emergency for the purposes of discussing and evaluating, in an advisory capacity to the Governor, the response to the public health emergency.

(2) The Council must meet at least every 30 days thereafter until the termination of the state of emergency due to a public health emergency.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>); 70 Del. Laws, c. 186, § 1 (<https://legis.delaware.gov/SessionLaws?volume=70&chapter=186>); 84 Del. Laws, c. 213, § 2 (<https://legis.delaware.gov/SessionLaws?volume=84&chapter=213>); 85 Del. Laws, c. 170, § 1 (<https://legis.delaware.gov/SessionLaws?volume=85&chapter=170>);

§ 3142. Public health emergency plan.

- (a) The Council must review the Public Health Emergency Operations Coordination Plan (Plan) for responding to a public health emergency that includes provisions for the following:
- (1) A means of notifying and communicating with the population during a state of public health emergency in compliance with this subchapter, including a plan that ensures that 90% of the population is covered by a health alert network;
 - (2) Centralized coordination of resources, manpower and services, including coordination of responses by state, local, and federal agencies;
 - (3) The location, procurement, storage, transportation, maintenance and distribution of essential materials, including medical supplies, drugs, vaccines, food, shelter and beds, including a plan (with identified personnel to be trained) to receive and distribute critical stockpile items and manage a mass distribution of vaccine and/or antibiotics on a 24 hours a day, 7 days a week basis;
 - (4) The continued, effective operation of the judicial system including, if deemed necessary, the identification and training of personnel to serve as emergency judges regarding matters of isolation and quarantine as described in this subchapter;
 - (5) The method of evacuating populations and housing and feeding the evacuated populations;
 - (6) The identification and training of health care providers to diagnose and treat persons with infectious diseases, including a review of statutes, regulations and ordinances that provide for credentialing, licensure and delegation of authority for executing emergency public health measures;
 - (7) Guidelines for the vaccination of persons in compliance with the provisions of this subchapter;
 - (8) Guidelines for the treatment of persons who have been exposed to or who are infected with diseases or health conditions caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents or biological toxins that pose a substantial risk of a significant number of fatalities or incidents of permanent or long-term disability. The guidelines should cover, but not be limited to, the following diseases: anthrax, botulism, smallpox, plague, tularemia and viral hemorrhagic fevers;
 - (9) Guidelines for the safe disposal of human remains, in compliance with the provisions of this subchapter;
 - (10) Guidelines for the safe disposal of infectious waste, in compliance with the provisions of this subchapter;
 - (11) Guidelines for the safe and effective management of persons isolated, quarantined, vaccinated or treated during a state of public health emergency;
 - (12) Tracking the source and outcomes of infected persons, including a plan to receive and evaluate urgent disease reports from all parts of the State on a 24 hour a day, 7 days a week basis;
 - (13) Ensuring that each county and city within the State identifies the following:
 - a. Sites where persons can be isolated or quarantined, with such sites complying with the provisions of this subchapter regarding the least restrictive means for isolation and quarantine and the requirements for the safety, health and maintenance of personal dignity of those isolated or quarantined;
 - b. Sites where medical supplies, food and other essentials can be distributed to the population;
 - c. Sites where emergency workers can be housed and fed;

d. Routes and means of transportation of people and materials;

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

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

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

(17) Development of a plan to improve working relationships and communications between Level A (clinical) and Level B/C laboratories (i.e., Laboratory Response Network laboratories) as well as other public health officials;

(18) Development of a plan for communication systems that provide for a 24 hour a day, 7 day a week flow of critical health information between hospital emergency departments, state and local health officials, and law enforcement;

(19) Development of a plan to enhance risk communication and information dissemination to educate the public regarding exposure risks and effective public response;

(20) Locating and procuring all funds, if any, that are available to the State from every federal agency to assist the State in its preparation for a public health emergency; and

(21) Other measures necessary to carry out the purposes of this subchapter.

(b) The Council shall review the Plan every 2 years.

(c) The Plan shall serve as a statewide plan and a regional plan with respect to federal bioterrorism requirements.

(d) Persons responsible for implementing the Plan must receive appropriate and timely training, and the Plan must be tested on a regular basis.

(e) The Council shall establish a hospital biopreparedness planning subcommittee, that must include representation from DEMA, the Department of Health and Social Services, the medical community and local emergency medical services.

(f) [Repealed.]

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>); 84 Del. Laws, c. 213, § 3 (<https://legis.delaware.gov/SessionLaws?volume=84&chapter=213>); 85 Del. Laws, c. 170, § 1 (<https://legis.delaware.gov/SessionLaws?volume=85&chapter=170>);

§ 3143. Rules and regulations.

The public health authority and the Department of Safety and Homeland Security are authorized to promulgate and implement such rules and regulations as are reasonable and necessary to implement and effectuate the provisions of this subchapter. The public health authority and the public safety authority shall have the power to enforce the provisions of this subchapter through the imposition of fines and penalties, the issuance of orders, and such other remedies as are provided by law, but nothing in this subchapter shall be construed to limit specific enforcement powers enumerated in this subchapter. However, rules and regulations promulgated and implemented under this subchapter and enforcement of the provisions of this subchapter must be in accord with the due process rights guaranteed by the 1897 Constitution of the State, as amended, and the Constitution of the United States of America.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>); 74 Del. Laws, c. 110, § 138 (<https://legis.delaware.gov/SessionLaws?volume=74&chapter=110>);

§ 3144. Liability.

(a) During a state of emergency, any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons, shall be considered, together with that person's successors in interest, if any, a public employee under §§ 4001-4002 of Title 10.

(b) During a state of emergency, any private person, firm or corporation or employee or agent of such person, firm or corporation who renders assistance or advice at the request of the State or its political subdivisions under the provisions of this subchapter shall be considered a public employee under §§ 4001-4002 of Title 10.

(c) The immunities provided in this section shall not apply to any private person, firm or corporation or employee or agent of such person, firm or corporation whose act or omission caused, in whole or in part, the emergency and who would otherwise be liable therefor.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>);

§ 3145. Compensation.

(a) The State shall pay just compensation to the owner of any private facilities or materials that are lawfully taken or appropriated by the public safety authority or public health authority for their temporary or permanent use under this subchapter during a public health emergency. State compensation shall not be provided for facilities or materials that are closed, evacuated, decontaminated or destroyed when there is reasonable cause to be believed that they may endanger the public health. Except as otherwise indicated in this subchapter, “just compensation” shall be used in the same manner that it is used in Chapter 61 of Title 10.

(b) Any action against the State with regard to the payment of compensation shall be brought in the Superior Court of the State in the county in which the property is alleged to have been taken or appropriated in accordance with existing Superior Court rules or any such rules that may be developed by the Court for use during a state of emergency.

(c) The amount of compensation shall be calculated in the same manner as compensation due for taking of property pursuant to nonemergency eminent domain procedures, except that the amount of compensation calculated for confiscated supplies or materials shall not exceed the costs incurred to produce the items.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>);

§ 3146. Saving clause.

This subchapter does not explicitly preempt other state laws or regulations that preserve to a greater degree the powers of the Governor or public health authority, provided such laws or regulations are consistent and do not otherwise restrict or interfere with the operation or enforcement of the provisions of this subchapter. The powers assigned to the Governor, public safety authority and public health authority by this subchapter supplement and do not derogate the Governor’s powers under subchapters III and IV of this chapter.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>);

§ 3147. Conflicting laws.

(a) This act does not restrict any person from complying with federal law or regulations.

(b) In the event of a conflict between this act and other state or local laws or regulations concerning public health powers, the provisions of this act apply.

73 Del. Laws, c. 355, § 13 (<https://legis.delaware.gov/SessionLaws?volume=73&chapter=355>);

§§ 3148-3150. [Reserved].

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