

Center for Law and the Public's Health
at Georgetown and Johns Hopkins Universities

Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, D.C., 20001
(410) 955-7624
www.publichealthlaw.net

The Model State Emergency Health Powers Act
As of December 21, 2001

Legislative Specifications Table

ARTICLE I TITLE, FINDINGS, PURPOSES, AND DEFINITIONS

Sec.	Title and Brief Description
§ 101	Short title - provides a short title for the Act.
§ 102	Legislative findings - provides a sample set of findings underlying the need for protecting the public health in an emergency.
§ 103	Purposes - summarizes the purposes of the Act, namely to provide the Governor, public health authority, and other state and local authorities with the powers and ability to prevent, detect, manage, and contain emergency health threats without unduly interfering with civil rights and liberties.
§ 104	Definitions - provides key definitions, including “public health emergency,” “bioterrorism,” “public health authority (PHA),” and “public safety authority.”

ARTICLE II PLANNING FOR A PUBLIC HEALTH EMERGENCY

Sec.	Title and Brief Description
§ 201	Public Health Emergency Planning Commission - authorizes Governor to establish a Commission to begin planning for a public health emergency.
§ 202	Public Health Emergency Plan - within six months of enactment of the Model Act, the Commission shall develop a comprehensive detection and response plan involving the PHA, public safety agencies, and others. The plan shall be reviewed and revised annually.

ARTICLE III MEASURES TO DETECT AND TRACK PUBLIC HEALTH EMERGENCIES

Sec.	Title and Brief Description
§ 301	Reporting - requires health care workers, coroners, pharmacists, veterinarians, laboratories, and others to make written or electronic reports of suspect illnesses or conditions to the PHA to detect a potential serious threat to the public's health.
§ 302	Tracking - requires PHA to investigate and track potential serious threats to the public health.
§ 303	Information sharing - authorizes public health and safety authorities to share information within limits to detect and respond to serious public health threats.

ARTICLE IV DECLARING A STATE OF PUBLIC HEALTH EMERGENCY

Sec.	Title and Brief Description
§ 401	Declaration - Governor can declare a state of public health emergency under a set of criteria and in consultation with the PHA or others.
§ 402	Content of declaration - requires Governor to issue an executive order.
§ 403	Effect of declaration - triggers the public health and other response mechanisms in the Act, including a series of emergency powers.
§ 404	Enforcement - allows PHA to seek assistance of public safety authority.
§ 405	Termination of declaration - requires termination of the declaration of a state of public health emergency by executive order within 30 days, unless renewed by Governor; allows state legislature to terminate declaration at any time via majority vote in both chambers.

ARTICLE V SPECIAL POWERS DURING A STATE OF PUBLIC HEALTH EMERGENCY: MANAGEMENT OF PROPERTY

Sec.	Title and Brief Description
§ 501	Emergency measures concerning facilities and materials - allows PHA to close, evacuate, or decontaminate any facility or material that poses a danger to the public health without compensation to the owner.
§ 502	Access to and control of facilities and property - allows PHA broad access and use of private facilities or materials during a public health emergency with compensation to private owners in the event of a taking.
§ 503	Safe disposal of infectious waste - sets rules for the safe disposal of infectious waste to prevent the spread of an illness or health condition.

Sec.	Title and Brief Description
§ 504	Safe disposal of human remains - provides guidelines for the safe disposal of human remains that may pose a public health threat, including use of private facilities as needed.
§ 505	Control of health care supplies - authorizes PHA to procure, obtain, and ration needed health supplies (e.g., anti-toxins, serums, vaccines, antibiotics, and other medicines), as well as control their distribution during a public health emergency.
§ 506	Compensation - provides compensation for private owners whose property is taken during a public health emergency. Compensation does not occur if the public health agency is exercising police powers (e.g., a nuisance abatement), but only if there is a “taking” of property.
§ 507	Destruction of property - requires some civil procedures prior to the destruction of property where possible.

**ARTICLE VI SPECIAL POWERS DURING A STATE OF PUBLIC HEALTH EMERGENCY:
PROTECTION OF PERSONS**

Sec.	Title and Brief Description
§ 601	Protection of persons - generally authorizes PHA to use every available means to control a threat to the public health during an emergency.
§ 602	Medical examination and testing - allows PHA to perform physical examinations and/or tests as necessary for the diagnosis or treatment of individuals during an emergency. Persons who refuse may be isolated or quarantined.
§ 603	Vaccination and treatment - PHA may require the vaccination of persons to prevent the spread of an infectious condition. Persons who refuse may be isolated or quarantined.
§ 604	Isolation and quarantine - empowers PHA to implement mandatory isolation (for infected persons) or quarantine (for exposed persons) measures for a limited period of time and consistent with a series of conditions and principles.
§ 605	Procedures for isolation and quarantine - outlines provisions for temporary isolation and quarantine measures, including notice, relief, recorded proceedings, appointment of counsel, and consolidation of claims, if and when possible.
§ 606	Collection of laboratory specimens; performance of tests - authorizes collection of lab specimens and performance of tests on living or deceased animals or persons and permits sharing information with public safety authorities to facilitate criminal investigations related to the public health emergency.

Sec.	Title and Brief Description
§ 607	Access to and disclosure of protected health information - allows access to records of persons under care of the PHA to persons with a need to know, but prohibits many disclosures of identifiable data outside the public health or safety setting without written, specific informed consent.
§ 608	Licensing and appointment of health personnel - requires in-state health care providers to assist with emergency treatment and preventative measures authorized by the Act, lifts licensing requirements to encourage out-of-state health care workers to participate in a public health emergency, and authorizes qualified individuals to assist with duties of state medical examiner and coroners.

ARTICLE VII PUBLIC INFORMATION REGARDING A PUBLIC HEALTH EMERGENCY

Sec.	Title and Brief Description
§ 701	Dissemination of information - requires PHA to inform the population of threats to the public health during a state of public health emergency. Information shall be provided in multiple languages (where needed) and in a medium that is accessible to all parts of the population.
§ 702	Provision of access to mental health support personnel - mental health personnel shall be made available to address psychological responses to the public health emergency.

ARTICLE VIII MISCELLANEOUS

Sec.	Title and Brief Description
§ 801	Titles - titles and subtitles in the Act are instructive, not binding.
§ 802	Rules and regulations - allows PHA to create administrative regulations or rules to further the purposes of the Act.
§ 803	Financing and expenses - authorizes Governor, within specific limits, to transfer state funds to respond to a public health emergency without specific legislative authorization. Funds shall be repaid to existing state accounts as soon as possible. Expenses for a public health emergency shall be authorized by the Governor, but shall not exceed a predetermined cap.
§ 804	Liability - creates general immunity for Governor, PHA, and other state executive agencies or actors for their actions during a public health emergency. Some private actors are also statutorily immune in specific circumstances.
§ 805	Compensation - requires compensation for private property that is lawfully taken or appropriated by a PHA during a public health emergency in the amount of and pursuant to procedures typical of a taking proceeding in non-emergency situations.

Sec.	Title and Brief Description
§ 806	Severability - the provisions of the Act are severable; if any provision is rendered invalid, other provisions remain.
§ 807	Repeals - a placeholder for specific state laws which the Model Act repeals.
§ 808	Saving clause - state laws that do not conflict with the Model Act, or that provide greater protections, continue to have effect.
§ 809	Conflicting laws - as a model state law, the Act cannot preempt any federal law or regulation, but does preempt inconsistent state laws.
§ 810	Effective date - the Act takes effect upon passage by the legislature and signature of the Governor.