

ENGROSSED HOUSE
BILL NO. 1467

By: Paulk of the House

and

Monson of the Senate

(Catastrophic Health Emergency Powers Act - public
health authority - health care supplies -
promulgation of rules - codification -
noncodification)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6101 of Title 63, unless there
is created a duplication in numbering, reads as follows:

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

SECTION 2. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 6102 of Title 63, unless there
is created a duplication in numbering, reads as follows:

The Oklahoma Legislature finds that:

1. The government must do more to protect the health, safety,
and general well-being of its citizens during a catastrophic health
emergency;

2. New and emerging dangers, including emergent and resurgent
infectious diseases and incidents of civilian mass casualties, pose
serious and immediate threats during a catastrophic health
emergency;

3. A renewed focus on the prevention, detection, management,
and containment of catastrophic health emergencies is needed;

4. Catastrophic health emergency threats, including those caused by nuclear, biological or chemical events, may require the exercise of extraordinary government powers and functions;

5. This state must have the ability to respond, rapidly and effectively, to potential or actual catastrophic health emergencies;

6. The exercise of catastrophic health emergency powers must promote the common good;

7. Catastrophic emergency health powers must be grounded in a thorough scientific understanding of public health threats and disease transmission;

8. Guided by principles of justice and antidiscrimination, it is the duty of this state to act with fairness and tolerance towards individuals and groups during catastrophic health emergencies;

9. The rights of people to liberty, bodily integrity, and privacy must be respected to the fullest extent possible consistent with maintaining and preserving the health and security of the public during a catastrophic health emergency;

10. This act is necessary to protect the health and safety of the citizens of this state during a catastrophic health emergency; and

11. The provisions of Sections 9 through 32 of this act shall only be activated upon the occurrence of a catastrophic health emergency.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6103 of Title 63, unless there is created a duplication in numbering, reads as follows:

The purposes of this act are:

1. To require the development of a comprehensive plan to provide for a coordinated, appropriate response in the event of a catastrophic health emergency;

2. To authorize the reporting and collection of data and records, the management of property, the protection of persons, and access to communications during a catastrophic health emergency;

3. To facilitate the early detection of a catastrophic health emergency, and allow for immediate investigation of such a catastrophic health emergency by granting access to health information of individuals under specified circumstances;

4. To grant state and local officials the authority during a catastrophic health emergency to provide care, treatment, and vaccination to persons who are ill or who have been exposed to transmissible diseases, and to separate affected individuals from the population at large to interrupt disease transmission;

5. To ensure during a catastrophic health emergency that the needs of infected or exposed persons are properly addressed to the fullest extent possible, given the primary goal of controlling serious health threats; and

6. To provide, during a catastrophic health emergency, state and local officials with the ability to prevent, detect, manage, and contain health threats without unduly interfering with civil rights and liberties.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6104 of Title 63, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Bioterrorism" means the intentional use of any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such microorganism, virus, infectious substance, or biological product, to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence

the conduct of government or to intimidate or coerce a civilian population;

2. "Catastrophic health emergency" means an occurrence of imminent threat of an illness or health condition that:

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

- (1) a nuclear attack,
- (2) bioterrorism, or
- (3) a chemical attack, 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;

3. "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;

4. "Contaminated waste" means:

- a. "biological waste", which includes blood and blood products, excretions, exudates, secretions, suctioning and other body fluids, and waste materials saturated with blood or body fluids,
- b. "cultures and stocks", which includes etiologic agents and associated biologicals, including specimen cultures and dishes and devices used to transfer,

inoculate, and mix cultures, wastes from production of biologicals and serums, and discarded live and attenuated vaccines,

- c. "pathological waste", which includes biopsy materials and all human tissues, anatomical parts that emanate from surgery, obstetrical procedures, necropsy or autopsy and laboratory procedures, and animal carcasses exposed to pathogens in research and the bedding and other waste from such animals, but does not include teeth or formaldehyde or other preservative agents, and
- d. "sharps", which includes needles, I.V. tubing with needles attached, scalpel blades, lancets, breakable glass tubes, and syringes that have been removed from their original sterile containers;

5. "Health care facility" means any nonfederal institution, building, or agency or portion thereof, whether public or private or for profit or nonprofit, that is used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. This includes, but is not limited to: ambulatory surgical facilities, hospitals, infirmaries, intermediate care facilities, kidney dialysis centers, long-term care facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatments facilities, skilled nursing facilities, special care facilities, medical laboratories, and adult day-care centers. This also includes, but is not limited to, the following related property when used for or in connection with the foregoing: laboratories; research facilities; pharmacies; laundry facilities; health personnel training and lodging facilities; patient, guest, and health personnel food service facilities; and

offices and office buildings for persons engaged in health care professions or services;

6. "Health care provider" means any person or entity who provides health care services including, but not limited to, physicians, pharmacists, dentists, physician assistants, nurse practitioners, registered and other nurses, paramedics, emergency medical or laboratory technicians, and ambulance and emergency medical workers;

7. "Infectious disease" means 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;

8. "Isolation" means the physical separation and confinement of an individual or groups of individuals who are infected or reasonably believed to be infected with a transmissible or possibly transmissible disease from nonisolated individuals, to prevent or limit the transmission of the disease to nonisolated individuals;

9. "Mental health support personnel" means, 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, or any other form, that relates to the past, present, or future physical or mental health status, condition, treatment, service, products purchased, or provision of care of an individual, and that reveals the identity of the individual whose health care is the subject of the information, or where there is a reasonable basis to believe such information could be utilized either alone or with other information that is, or should reasonably be known to be, available to predictable recipients of such information to reveal the identity of that individual;

11. "Public health authority" means the Oklahoma State Commissioner of Health; or local health department that acts principally to protect or preserve the health of the public; or any person directly authorized to act on behalf of the Oklahoma State Commissioner of Health or local health department;

12. "Public safety authority" means the Commissioner of Public Safety; or any local government agency that acts principally to protect or preserve the public safety; or any person directly authorized to act on behalf of the Commissioner of Public Safety or local agency;

13. "Quarantine" means the physical separation and confinement of an individual or groups of individuals, who are or may have been exposed to a transmissible or possibly transmissible disease and who do not show signs or symptoms of a transmissible disease, from nonquarantined individuals, to prevent or limit the transmission of the disease to nonquarantined individuals;

14. "Specimens" means, but is not limited to, blood, sputum, urine, stool, other bodily fluids, wastes, tissues, and cultures necessary to perform required tests;

15. "Tests" means, but is not limited to, any diagnostic or investigative analyses necessary to prevent the spread of disease or protect the health, safety, and welfare of the public;

16. "Transmissible disease" means an infectious disease that can be transmitted from person to person; and

17. "Trial court" means the district court for the area in which isolation or quarantine is to occur, a court designated by the Public Health Emergency Plan under this act, or to the district court for the area in which a catastrophic health emergency has been declared.

SECTION 5. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

A. There is hereby created the Oklahoma Catastrophic Health Emergency Planning Task Force. The purpose of the task force is to prepare a plan for responding to a catastrophic health emergency.

B. The task force shall be comprised as follows:

1. The cabinet secretary with responsibilities for health and human services who shall serve as chair of the task force;
2. The State Commissioner of Health or a designee;
3. The Director of the Department of Public Safety or a designee;
4. The State Attorney General or a designee;
5. The Administrative Director of the Courts or a designee;
6. The Director of Civil Emergency Management or a designee;
7. Two members of the State Senate to be appointed by the President Pro Tempore of the Senate;
8. Two members of the Oklahoma House of Representatives to be appointed by the Speaker of the House of Representatives;
9. The Director of the Tulsa City-County Health Department or a designee;
10. The Director of the Oklahoma City-County Health Department or a designee;
11. The State Fire Marshal;
12. A representative of the Oklahoma State Board of Medical Licensure and Supervision;
13. A representative of the State Board of Osteopathic Examiners;
14. A representative of the Governor to be appointed by the Governor; and
15. A person appointed by the Governor representing a statewide organization representing hospitals.

C. No later than December 31, 2003, the task force shall deliver a plan for responding to a catastrophic health emergency to the Governor, the President Pro Tempore of the State Senate, and the

Speaker of the Oklahoma House of Representatives. The plan shall include provisions or guidelines for the following:

1. Notification of and communication with the population during a catastrophic health emergency;

2. Central coordination of resources, manpower, and services, including coordination of responses by state, local, tribal, and federal agencies during a catastrophic health emergency;

3. The location, procurement, storage, transportation, maintenance, and distribution of essential materials including, but not limited to, medical supplies, drugs, vaccines, food, shelter, clothing, and beds during a catastrophic health emergency;

4. The role of law enforcement agencies in response to a catastrophic health emergency;

5. The continued, effective operation of the judicial system during a catastrophic health emergency including, if deemed necessary, the identification and training of personnel to serve as emergency judges regarding matters of isolation and quarantine;

6. The method of evacuating populations and housing and feeding evacuated populations during a catastrophic health emergency;

7. The identification and training of health care providers to diagnose and treat persons with infectious disease during a catastrophic health emergency;

8. The vaccination of persons during a catastrophic health emergency;

9. The treatment of persons who have been exposed to or who are infected with diseases or health conditions that may be the cause of a catastrophic health emergency;

10. The safe disposal of contaminated wastes and human remains during a catastrophic health emergency;

11. The safe and effective control of persons isolated, quarantined, vaccinated, tested, or treated during a catastrophic health emergency;

12. Tracking the source and outcomes of infected persons during a catastrophic health emergency;

13. Ensuring that during a catastrophic health emergency each city and county within the state identifies the following:

- a. sites where infected persons can be isolated or quarantined and conditions for isolation or quarantine,
- b. sites where medical supplies, food, and other essentials can be distributed to the population,
- c. sites where public health and emergency workers can be housed and fed, and
- d. routes and means of transportation of people and materials;

14. The recognition of cultural norms, values, religious principles, and traditions that may be relevant during a catastrophic health emergency; and

15. Other measures necessary to carry out the purposes of this act.

D. The task force shall distribute this plan to those who will be responsible for its implementation, other interested persons and the public and seek their review and comments.

E. The task force shall annually review its plan for responding to a catastrophic health emergency.

F. Staff assistance for the task force shall be provided upon request by the chair of the task force by the agency or agencies determined to be appropriate by the chair.

G. Members of the task force shall receive no compensation for serving on the task force, but shall receive travel reimbursement as follows:

1. Legislative members of the task force shall be reimbursed for their necessary travel expenses incurred in the performance of

their duties in accordance with Section 456 of Title 74 of the Oklahoma Statutes; and

2. Nonlegislative members of the task force shall be reimbursed pursuant to the Oklahoma Travel Reimbursement Act by their employing or appointing agencies.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6301 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. A health care provider, coroner, or medical examiner shall report all cases of persons who harbor any illness or health condition that may be potential cause of a catastrophic health emergency. Reportable illnesses and health conditions include, but are not limited to, the diseases caused by the biological agents listed in 42 C.F.R., Section 72, app. A (2000) and any illnesses or health conditions identified by the public health authority.

B. In addition to the foregoing requirements for health care providers, a pharmacist shall report any unusual or increased prescription rates, unusual types of prescriptions, or unusual trends in pharmacy visits that may be potential causes of a catastrophic health emergency. Prescription-related events that require a report include, but are not limited to:

1. An unusual increase in the number of prescriptions or over-the-counter pharmaceuticals to treat conditions that the public health authority identifies through regulations;

2. An unusual increase in the number of prescriptions for antibiotics; and

3. Any prescription that treats a disease that is relatively uncommon or may be associated with bioterrorism.

C. The report shall be made electronically or in writing within twenty-four (24) hours to the public health authority. The report shall include as much of the following information as is available: the specific illness or health condition that is the subject of the

report; the name of the patient, date of birth, sex, race, occupation, and current home and work addresses, including city and county; the name and address of the health care provider, coroner, or medical examiner and of the reporting individual, if different; and any other information needed to locate the patient for follow-up. For cases related to animal or insect bites, the suspected locating information of the biting animal or insect, and the name and address of any known owner, shall be reported.

D. Any animal case of a zoonotic disease that is suspected to be a bioterrorism event or associated with an outbreak shall be reported to the State Veterinarian. Appropriate clinical specimens will be required to be rapidly submitted for laboratory confirmation. The State Veterinarian or State Veterinary Diagnostic Laboratory Director or a designee will immediately report by telephone confirmed veterinary cases of public health importance to the State Department of Health.

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

F. The public health authority may enforce the provisions of this section in accordance with existing enforcement rules.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6302 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The public health authority shall ascertain the existence of cases of an illness or health condition that may be potential causes of a catastrophic health emergency; investigate all such cases for sources of infection or contamination and to ensure that they are

subject to proper control measures; and define the distribution of the illness or health condition. To fulfill these duties, the public health authority shall identify exposed individuals as follows:

1. Acting on information developed in accordance with Section 6 of this act, or other reliable information, the public health authority shall identify all individuals thought to have been exposed to an illness or health condition that may be a potential cause of a catastrophic health emergency; and

2. The public health authority shall counsel and interview such individuals where needed to assist in the positive identification of exposed individuals and develop information relating to the source and spread of the illness or health condition. Such information includes the name and address, including city and county, of any person from whom the illness or health condition may have been contracted and to whom the illness or health condition may have spread.

B. The public health authority shall, for examination purposes, close, evacuate, or decontaminate any facility or decontaminate or destroy any material when the authority reasonably suspects that such facility or material may endanger the public health.

C. The public health authority may enforce the provisions of this section in accordance with existing enforcement rules. An order of the public health authority given to effectuate the purposes of this section shall be enforceable immediately by the public safety authority.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6303 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Whenever the public safety authority or other state or local government agency learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that may be the

cause of a catastrophic health emergency, it shall immediately notify the public health authority.

B. Whenever the public health authority learns of a case of a reportable illness or health condition, an unusual cluster, or a suspicious event that it reasonably believes has the potential to be caused by terrorism, it shall immediately notify the public safety authority, tribal authorities, and federal health and public safety authorities.

C. Sharing of information on reportable illnesses, health conditions, unusual clusters, or suspicious events between public health and safety authorities shall be restricted to the information necessary for the treatment, control, investigation, and prevention of a catastrophic health emergency.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6401 of Title 63, unless there is created a duplication in numbering, reads as follows:

A state of catastrophic health emergency may be declared by the Governor upon the occurrence of a "catastrophic health emergency" as defined in paragraph 2 of Section 4 of this act. Prior to such a declaration, the Governor shall consult with the public health authority and may consult with any additional public health or other experts as needed.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6402 of Title 63, unless there is created a duplication in numbering, reads as follows:

A state of catastrophic health emergency shall be declared by an executive order that specifies:

1. The nature of the catastrophic health emergency;
2. The political subdivisions or geographic areas subject to the declaration;
3. The conditions that have brought about the catastrophic health emergency;

4. The duration of the state of the catastrophic health emergency, if less than thirty (30) days; and

5. The primary public health authority responding to the catastrophic health emergency.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6403 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The declaration of a state of catastrophic health emergency shall activate the disaster response and recovery aspects of the state, local, and inter-jurisdictional disaster emergency plans in the affected political subdivisions or geographic areas. Such declaration authorizes the deployment and use of any forces to which the plans apply and the use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or available pursuant to this act.

B. During a state of catastrophic health emergency, the Governor may:

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

2. Utilize all available resources of the state government and its political subdivisions, as reasonably necessary to respond to the catastrophic health emergency;

3. Transfer the direction, personnel, or functions of state departments and agencies in order to perform or facilitate response and recovery programs regarding the catastrophic health emergency;

4. Mobilize all or any part of the National Guard into service of the state. An order directing the National Guard to report for

active duty shall state the purpose for which it is mobilized and the objectives to be accomplished;

5. Provide aid to and seek aid from other states during the catastrophic health emergency in accordance with any interstate emergency compact made with this state; and

6. Seek aid from the federal government for the catastrophic health emergency in accordance with federal programs or requirements.

C. The public health authority shall coordinate all matters pertaining to the catastrophic health emergency response of the state. The public health authority shall have primary jurisdiction, responsibility, and authority for:

1. Planning and executing catastrophic health emergency assessment, mitigation, preparedness response, and recovery for the state;

2. Coordinating catastrophic health emergency response between state and local authorities during a catastrophic health emergency;

3. Collaborating with relevant federal government authorities, elected officials of other states, private organizations or companies during a catastrophic health emergency;

4. Coordinating recovery operations and mitigation initiatives subsequent to catastrophic health emergencies; and

5. Organizing public information activities regarding catastrophic health emergency response operations.

D. After the declaration of a state of catastrophic health emergency, special identification for all public health personnel working during the catastrophic health emergency shall be issued as soon as possible. The identification shall indicate the authority of the bearer to exercise public health functions and emergency powers during the state of catastrophic health emergency. Public health personnel shall wear the identification in plain view.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6404 of Title 63, unless there is created a duplication in numbering, reads as follows:

During a state of catastrophic health emergency, the public health authority may request assistance in enforcing orders pursuant to this act from the public safety authority. The public safety authority may request assistance from the National Guard in enforcing the orders of the public health authority.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6405 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Governor shall terminate the declaration of a state of catastrophic health emergency by executive order upon finding that the occurrence of the condition that caused the catastrophic health emergency no longer poses a high probability of a large number of deaths in the affected population, a large number of incidents of serious permanent or long-term disability in the affected population, or a significant risk of substantial future harm to a large number of people in the affected population.

B. Notwithstanding any other provision of this act, the declaration of a state of catastrophic health emergency shall be terminated automatically after thirty (30) days unless renewed by the Governor under the same standards and procedures set forth in this act. Any such renewal shall also be terminated automatically after thirty (30) days unless renewed by the Governor under the same standards and procedures set forth in this act.

C. If the Governor declares a catastrophic health emergency, the State Legislature shall automatically be called into Special Session at 8:00 a.m. on the morning of the second day following the date of such declaration for the purpose of concurring with or terminating the catastrophic health emergency. The State Legislature by concurrent resolution may terminate a state of

catastrophic health emergency at any time. Thereupon, the Governor shall by appropriate action end the state of catastrophic health emergency. Such termination by the State Legislature shall override any renewal by the Governor.

D. All orders or legislative actions terminating the declaration of a state of catastrophic health emergency shall indicate the nature of the emergency, the area or areas threatened, and the conditions that make possible the termination of the declaration.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6501 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The public health authority may exercise, for such period as the state of catastrophic health emergency exists, the following powers regarding the safe disposal of contaminated waste:

1. To adopt and enforce measures to provide for the safe disposal of contaminated waste as may be reasonable and necessary to respond to the catastrophic health emergency. Such measures may include, but are not limited to, the collection, storage, handling, destruction, treatment, transportation, and disposal of contaminated waste; and

2. To require any business or facility authorized to collect, store, handle, destroy, treat, transport, and dispose of contaminated waste under the laws of this state, and any landfill business or other such property, to accept contaminated waste, or provide services or the use of the business, facility, or property if such action is reasonable and necessary to respond to the catastrophic health emergency as a condition of licensure, authorization, or the ability to continue doing business in the state as such a business or facility. The use of the business, facility, or property may include transferring the management and supervision of such business, facility, or property to the public

health authority for a period of time, which shall not exceed the termination of the declaration of a state of catastrophic health emergency.

B. All bags, boxes, or other containers for contaminated waste shall be clearly identified as containing contaminated waste and, if known, the type of contaminated waste.

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6502 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The public health authority may exercise, for such period as the state of catastrophic health emergency exists, the following powers regarding the safe disposal of human remains:

1. To adopt and enforce measures to provide for the safe disposal of human remains as may be reasonable and necessary to respond to the catastrophic health emergency. Such measures may include, but are not limited to, the embalming, burial, cremation, interment, disinterment, transportation, and disposal of human remains;

2. To take possession or control of any human remains;

3. To order the disposal of any human remains of a person who has died of a transmissible disease through burial or cremation within twenty-four (24) hours after death. To the extent possible, religious, cultural, family, and individual beliefs of the deceased person or the family of the deceased person shall be considered when disposing of any human remains;

4. To require any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of human remains under the laws of this state to accept any human remains or provide the use of its business or facility if such actions are reasonable and necessary to respond to the catastrophic health emergency as a condition of licensure, authorization, or the ability to continue doing business in the state as such a business or

facility. The use of the business or facility may include transferring the management and supervision of such business or facility to the public health authority for a period of time, which shall not exceed the termination of the declaration of a state of catastrophic health emergency; and

5. To procure, by condemnation or otherwise, any business or facility authorized to embalm, bury, cremate, inter, disinter, transport, and dispose of human remains under the laws of this state as may be reasonable and necessary to respond to the catastrophic health emergency, with the right to take immediate possession thereof.

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

C. Every person in charge of disposing of any human remains during a catastrophic health emergency shall maintain a written or electronic record of the human remains and all available information to identify the decedent and the circumstances of death and disposal. If human remains cannot be identified prior to disposal, a qualified person shall, to the extent possible, take fingerprints and photographs of the human remains, obtain identifying dental information, and collect a DNA specimen. All information gathered under this subsection shall be promptly forwarded to the public health authority.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6503 of Title 63, unless there is created a duplication in numbering, reads as follows:

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 catastrophic health emergency, without any additional legislative authorization.

B. If a catastrophic health emergency results in a statewide or regional shortage or threatened shortage of any product under subsection A of this section, whether or not such product has been purchased by the public health authority, the public health authority may control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, allocation, or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the public health, safety, and welfare of the people of the state during the catastrophic health emergency.

C. In making rationing or other supply and distribution decisions, the public health authority may give preference to health care providers, disaster response personnel, and mortuary staff.

D. During a state of catastrophic health emergency, the public health authority may procure, store, or distribute any antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the state as may be reasonable and necessary to respond to the catastrophic health emergency, with the right to take immediate possession thereof. If a catastrophic health emergency simultaneously affects more than one state, nothing in this section shall be construed to allow the public health authority to obtain antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies for the primary purpose of hoarding such items or preventing fair and equitable distribution among affected states.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6504 of Title 63, unless there is created a duplication in numbering, reads as follows:

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

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6601 of Title 63, unless there is created a duplication in numbering, reads as follows:

During a state of catastrophic health emergency, the public health authority shall use every available means to prevent the utilization of nuclear, biological, or chemical agents, and to otherwise ensure that all cases of transmissible disease are subject to proper control and treatment.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6602 of Title 63, unless there is created a duplication in numbering, reads as follows:

During a state of catastrophic health emergency, the public health authority may perform physical examinations or tests as necessary for the diagnosis or treatment of individuals.

1. Medical examinations or tests may be performed by any qualified person authorized to do so by the public health authority.

2. Medical examinations or tests must not be such as are reasonably likely to lead to serious harm to the affected individual.

3. The public health authority may isolate or quarantine, pursuant to Section 21 of this act, any person whose refusal of medical examination or testing results in uncertainty regarding whether that person has been exposed to or is infected with a transmissible or possibly transmissible disease or otherwise poses a danger to public health.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6603 of Title 63, unless there is created a duplication in numbering, reads as follows:

During a state of catastrophic health emergency, the public health authority may exercise the following emergency powers over persons as necessary to address the catastrophic health emergency:

1. To vaccinate persons as protection against infectious disease and to prevent the spread of transmissible or possibly transmissible 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 transmissible or possibly transmissible disease, the public health authority may isolate or quarantine, pursuant to Section 21 of this act, persons who are unable or unwilling for reasons of health, religion, or conscience to undergo vaccination pursuant to this section; and
2. To treat 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 avoidable harm to the affected individual.

- c. To prevent the spread of transmissible or possibly transmissible disease, the public health authority may isolate or quarantine, pursuant to Section 21 of this act, persons who are unable or unwilling for reasons of health, religion, or conscience to undergo treatment pursuant to this section.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6604 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. During the catastrophic health emergency, the public health authority may use isolation, as that term is defined in paragraph 8 of Section 4 of this act, or quarantine, as that term is defined in paragraph 13 of Section 4 of this act, an individual or groups of individuals. This includes individuals or groups who have not been vaccinated, treated, tested, or examined pursuant to Sections 20 and 21 of this act. The public health authority may also establish and maintain places of isolation and quarantine, and set rules and make orders. Failure to obey these rules, orders, or provisions shall constitute a misdemeanor.

B. The public health authority shall adhere to the following conditions and principles when isolating or quarantining individuals or groups of individuals during a catastrophic health emergency:

1. Isolation and quarantine must be by the least restrictive means necessary to prevent the spread of a transmissible or possibly transmissible disease to others and may include, but are not limited to, confinement to private homes or other private and public premises;

2. Isolated individuals must be confined separately from quarantined individuals;

3. The health status of isolated and quarantined individuals must be monitored regularly to determine if they require isolation or quarantine;

4. If a quarantined individual subsequently becomes infected or is reasonably believed to have become infected with a transmissible or possibly transmissible disease, that individual must promptly be removed to isolation;

5. Isolated and quarantined individuals must be immediately released when they pose no substantial risk of transmitting a transmissible or possibly transmissible disease to others;

6. The needs of persons isolated and quarantined shall be addressed in a systematic and competent fashion, including, but not limited to, providing adequate food, clothing, shelter, means of communication with those in isolation or quarantine and outside these settings, medication, and competent medical care;

7. Premises used for isolation and quarantine shall be maintained in a safe and hygienic manner and be designed to minimize the likelihood of further transmission of infection or other harms to persons isolated and quarantined; and

8. To the extent possible, cultural and religious beliefs should be considered in addressing the needs of individuals, and establishing and maintaining isolation and quarantine premises.

C. Persons subject to isolation or quarantine during a catastrophic health emergency shall obey the rules and orders of the public health authority and shall not go beyond the isolation or quarantine premises. Failure to comply with this subsection shall constitute a misdemeanor.

D. 1. During the catastrophic health emergency, the public health authority may authorize physicians, health care workers, or others to have access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.

2. No person, other than a person authorized by the public health authority, shall enter isolation or quarantine premises. Failure to comply with this paragraph shall constitute a misdemeanor.

3. Any person entering an isolation or quarantine premises with or without authorization of the public health authority may be isolated or quarantined pursuant to subsections A and B of this section.

SECTION 22. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6605 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. During a catastrophic health emergency, the isolation and quarantine without notice of an individual or groups of individuals shall be undertaken in accordance with the following procedures:

1. The public health authority may temporarily isolate or quarantine an individual or groups of individuals through a written directive if delay in imposing the isolation or quarantine would significantly jeopardize the ability of the public health authority to prevent or limit the transmission of a transmissible or possibly transmissible disease to others;

2. The written directive shall specify the following:

- a. the identity of the individual(s) or groups of individuals subject to isolation or quarantine,
- b. the premises subject to isolation or quarantine,
- c. the date and time at which isolation or quarantine commences,
- d. the suspected transmissible disease if known, and
- e. a copy of the relevant sections of this act;

3. A copy of the written directive shall be given to the individual to be isolated or quarantined or, if the order applies to a group of individuals and it is impractical to provide individual copies, it may be posted in a conspicuous place in the isolation or quarantine premises; and

4. Within ten (10) days after issuing the written directive, the public health authority shall file a petition pursuant to subsection B of this section for a court order authorizing the

continued isolation or quarantine of the isolated or quarantined individual or groups of individuals.

B. During a catastrophic health emergency, the isolation and quarantine of an individual or groups of individuals shall be undertaken in accordance with the following procedures:

1. The public health authority may make a written petition to the trial court for an order authorizing the isolation or quarantine of an individual or groups of individuals;

2. A petition under paragraph 1 of this subsection shall specify the following:

- a. the identity of the individual or groups of individuals subject to isolation or quarantine,
 - b. the premises subject to isolation or quarantine,
 - c. the date and time at which isolation or quarantine commences,
 - d. the suspected transmissible disease if known,
 - e. a statement of compliance with the conditions and principles for isolation and quarantine of subsection B of Section 21 of this act, and
 - f. a statement of the basis upon which isolation or quarantine is justified in compliance with this act.
- The petition shall be accompanied by the sworn affidavit of the public health authority attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the consideration of the court;

3. Notice to the individuals or groups of individuals identified in the petition shall be accomplished within twenty-four (24) hours in accordance with the rules of civil procedure;

4. A hearing must be held on any petition filed pursuant to this subsection within five (5) days of filing of the petition. In extraordinary circumstances and for good cause shown, the public

health authority may apply to continue the hearing date on a petition filed pursuant to this section for up to ten (10) days, which continuance the court may grant giving due regard to the rights of the affected individuals, the protection of the health of the public, the severity of the emergency and the availability of necessary witnesses and evidence;

5. The court shall grant the petition if, by a preponderance of the evidence, isolation or quarantine is shown to be reasonably necessary to prevent or limit the transmission of a transmissible or possibly transmissible disease to others.

a. An order authorizing isolation or quarantine may do so for a period not to exceed thirty (30) days.

b. The order shall:

- (1) identify the isolated or quarantined individuals or groups of individuals by name or shared or similar characteristics or circumstances,
- (2) specify factual findings warranting isolation or quarantine pursuant to this act,
- (3) include any conditions necessary to ensure that isolation or quarantine is carried out within the stated purposes and restrictions of this act, and
- (4) be served on affected individuals or groups of individuals in accordance with the rules of civil procedure; and

6. Prior to the expiration of an order issued pursuant to paragraph 5 of this subsection, the public health authority may move to continue isolation or quarantine for additional periods not to exceed thirty (30) days each. The court shall consider the motion in accordance with standards set forth in paragraph 5 of this subsection.

C. Relief from isolation and quarantine may be obtained in the following manner:

1. An individual or group of individuals isolated or quarantined pursuant to this act may apply to the trial court for an order to show cause why the individual or group of individuals should not be released. The court shall rule on the application to show cause within forty-eight (48) hours of its filing. If the court grants the application, the court shall schedule a hearing on the order to show cause within twenty-four (24) hours from issuance of the order to show cause. The issuance of an order to show cause shall not stay or enjoin an isolation or quarantine order;

2. An individual or groups of individuals isolated or quarantined pursuant to this act may request a hearing in the trial court for remedies regarding breaches to the conditions of isolation or quarantine. A request for a hearing shall not stay or enjoin an isolation or quarantine order.

- a. Upon receipt of a request under this paragraph alleging extraordinary circumstances justifying the immediate granting of relief, the court shall fix a date for hearing on the matters alleged not more than twenty-four (24) hours from receipt of the request.
- b. Otherwise, upon receipt of a request under this paragraph the court shall fix a date for hearing on the matters alleged within five (5) days from receipt of the request; and

3. In any proceedings brought for relief under this subsection, in extraordinary circumstances and for good cause shown the public health authority may move the court to extend the time for a hearing, which extension the court may grant giving due regard to the rights of the affected individuals, the protection of the health of the public, the severity of the emergency and the availability of necessary witnesses and evidence.

D. A record of the proceedings pursuant to this section shall be made and retained. In the event that, given a state of

catastrophic health emergency, parties cannot personally appear before the court, proceedings may be conducted by authorized representatives and be held via any means that allows all parties to fully participate.

E. The court shall appoint counsel and consolidate claims in the following manner:

1. The court shall appoint counsel at state expense to represent individuals or groups of individuals who are or who are about to be isolated or quarantined pursuant to the provisions of this act and who are not otherwise represented by counsel. Appointments shall be made in accordance with the procedures to be specified in the Catastrophic Health Emergency Plan and shall last throughout the duration of the isolation or quarantine of the individual or groups of individuals. The public health authority must provide adequate means of communication between the individuals or groups and their counsel; and

2. In any proceedings brought pursuant to this section, to promote the fair and efficient operation of justice and having given due regard to the rights of the affected individuals, the protection of the health of the public, the severity of the emergency and the availability of necessary witnesses and evidence, the court may order the consolidation of individual claims into a group of claims where:

- a. the number of individuals involved or to be affected is so large as to render individual participation impractical,
- b. there are questions of law or fact common to the individual claims or rights to be determined,
- c. the group claims or rights to be determined are typical of the claims or rights of the affected individuals, and

d. the entire group will be adequately represented in the consolidation.

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6606 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The public health authority may, for such period as the state of catastrophic health emergency exists, collect specimens and perform tests on living persons as provided in Section 19 of this act and also upon deceased persons and any living or deceased animal, and acquire any previously collected specimens or test results that are reasonable and necessary to respond to the catastrophic health emergency. All specimens shall be clearly marked.

B. 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 the specimen.

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

D. Recognizing that, during a state of catastrophic 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 any support as is reasonable and necessary to aid in a relevant criminal investigation.

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6607 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Access to protected health information of persons who have participated in medical testing, treatment, vaccination, isolation, or quarantine programs or efforts by the public health authority during a catastrophic health emergency shall be limited to those persons having a legitimate need to acquire or use the information to:

1. Provide treatment to the individual who is the subject of the health information;
2. Conduct epidemiological research; or
3. Investigate the causes of transmission.

B. Protected health information held by the public health authority during a catastrophic health emergency shall not be disclosed to others without individual, written, specific informed consent, except for disclosures made:

1. Directly to the individual;
2. To the immediate family members or personal representative of the individual;
3. To appropriate federal agencies or authorities pursuant to federal law;
4. Pursuant to a court order to avert a clear danger to an individual or the public health; or
5. To identify a deceased individual or determine the manner or cause of death.

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6608 of Title 63, unless there is created a duplication in numbering, reads as follows:

The public health authority may exercise, for the period the state of catastrophic health emergency exists, the following emergency powers regarding licensing and appointment of health personnel:

1. To require in-state health care providers to assist in the performance of vaccination, treatment, examination, or testing of

any individual as a condition of licensure, authorization, or the ability to continue to function as a health care provider in this state;

2. To appoint and prescribe the duties of such out-of-state emergency health care providers as may be reasonable and necessary to respond to the catastrophic health emergency.

- a. The appointment of out-of-state emergency health care providers may be for a limited or unlimited time, but shall not exceed the termination of the declaration of a state of catastrophic health 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 and applicable orders or rules for health care providers from other jurisdictions to practice in this state.
- c. Any out-of-state emergency health care provider appointed pursuant to this section shall not be held liable for any civil damages as a result of medical care or treatment related to the response to the catastrophic health emergency unless such damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of the patient; and

3. To authorize the medical examiner or coroner to appoint and prescribe the duties of emergency assistant medical examiners or

coroners as may be required for the proper performance of the duties of the office.

- a. The appointment of emergency assistant medical examiners or coroners may be for a limited or unlimited time, but shall not exceed the termination of the declaration of a state of catastrophic health emergency. The medical examiner or coroner may terminate such emergency appointments at any time or for any reason, provided that any such termination will not impede the performance of the duties of the office.
- b. The medical examiner or coroner may waive licensing requirements, permits, or fees required by the state code and applicable orders or rules for the performance of these duties.
- c. Any emergency assistant medical examiner or coroner appointed pursuant to this section and acting without malice and within the scope of the prescribed duties shall be immune from civil liability in the performance of such duties.

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6701 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The public health authority shall inform the people of the state when a state of catastrophic health emergency has been declared or terminated, how to protect themselves during a state of catastrophic health emergency, and what actions are being taken to control the catastrophic health emergency.

B. The public health authority shall provide information by all available and reasonable means calculated to bring the information promptly to the attention of the general public.

C. If the public health authority has reason to believe there are large numbers of people of the state who lack sufficient skills in English to understand the information, the public health authority shall make reasonable efforts to provide the information in the primary languages of those people as well as in English.

D. The provision of information shall be made in a manner accessible to individuals with disabilities.

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6702 of Title 63, unless there is created a duplication in numbering, reads as follows:

During and after the declaration of a state of catastrophic health emergency, the public health authority shall provide information about and referrals to mental health support personnel to address psychological responses to the catastrophic health emergency.

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6801 of Title 63, unless there is created a duplication in numbering, reads as follows:

The public health authority and other affected agencies are authorized to promulgate and implement rules as are reasonable and necessary to implement and effectuate the provisions of this act. The public health authority and other affected agencies shall have the power to enforce the provisions of this act through the imposition of fines and penalties, the issuance of orders, and any other remedies as are provided by law, but nothing in this section shall be construed to limit specific enforcement powers enumerated in this act.

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6802 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. During a catastrophic health emergency, the Governor may transfer from any fund available to the Governor in the State

Treasury sums of money as may be necessary during a state of catastrophic health emergency.

B. Monies so transferred shall be repaid to the fund from which they were transferred when monies become available for that purpose, by legislative appropriation or otherwise.

C. A transfer of funds by the Governor under the provisions of this section may be made only when one or more of the following conditions exist:

1. No appropriation or other authorization is available to meet the catastrophic health emergency;

2. An appropriation is insufficient to meet the catastrophic health emergency; or

3. Federal monies available for such a catastrophic health emergency require the use of state or other public monies.

D. All expenses incurred by the state during a state of catastrophic health emergency shall be subject to the following limitations:

1. No expense shall be incurred against the monies authorized under this section, without the general approval of the Governor;

2. The aggregate amount of all expenses incurred pursuant to this section shall not exceed Fifty Million Dollars (\$50,000,000.00) for any fiscal year; and

3. Monies authorized for a state of catastrophic health emergency in prior fiscal years may be used in subsequent fiscal years only for the catastrophic health emergency for which they were authorized. Monies authorized for a catastrophic health emergency in prior fiscal years, and expended in subsequent fiscal years for the catastrophic health emergency for which they were authorized, apply toward the fifty-million-dollar expense limit for the fiscal year in which they were authorized.

SECTION 30. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6803 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. Neither the state, its political subdivisions, nor, except in cases of gross negligence or willful misconduct, the Governor, the public health authority, or any other state or local official referenced in this act, shall be liable for the death of or any injury to persons, or damage to property, as a result of complying with or attempting to comply with this act or any rule promulgated pursuant to this act during a state of catastrophic health emergency.

B. 1. During a state of catastrophic health emergency, any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons, together with successors in interest of that person, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under that license, privilege, or other permission, or for negligently causing loss of, or damage to, the property of that person.

2. During a state of catastrophic health emergency, any person, firm or corporation and employees and agents of any person, firm or corporation in the performance of a contract with, and under the direction of, the state or its political subdivisions under the provisions of this act shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of gross negligence or willful misconduct.

3. During a state of catastrophic health emergency, any person, firm or corporation and employees and agents of any person, firm or corporation, who render assistance or advice at the request of the

state or its political subdivisions under the provisions of this act shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of gross negligence or willful misconduct.

4. The immunities provided in this subsection shall not apply to any person, firm, or corporation or employees and agents of any person, firm, or corporation whose act or omission caused in whole or in part the catastrophic health emergency and who would otherwise be liable therefor.

SECTION 31. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6804 of Title 63, unless there is created a duplication in numbering, reads as follows:

This act does not explicitly preempt other laws or rules that preserve to a greater degree the powers of the Governor or public health authority, provided such laws or rules are consistent, and do not otherwise restrict or interfere, with the operation or enforcement of the provisions of this act.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6805 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. This act does not restrict any person from complying with federal law or regulations; provided, any disclosure by a health care provider or other covered entity of information or data which is protected health information under the provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPPA"), Public Law 104-191, and which disclosure is occasioned or otherwise caused by the exercise of any emergency powers pursuant to this act, shall be deemed a disclosure for "Uses and Disclosures Required by Law", as defined by 45 C.F.R., Section 164.512(a), and for "Uses and Disclosures for Public Health Activities", as defined by 45 C.F.R., Section 164.512(b).

B. During a catastrophic health emergency, in the event of a conflict between this act and other state or local laws or rules concerning public health powers, the provisions of this act apply.

C. Nothing in this act shall imply the predesignation of hospitals.

Passed the House of Representatives the 25th day of February, 2003.

Presiding Officer of the House of
Representatives

Passed the Senate the ____ day of _____, 2003.

Presiding Officer of the Senate