

ENROLLED HOUSE
BILL NO. 1467

By: Paulk of the House

and

Monson of the Senate

An Act relating to public health and safety; enacting the Catastrophic Health Emergency Powers Act; providing short title; stating legislative findings; stating purposes of act; defining terms; establishing Oklahoma Catastrophic Health Emergency Planning Task Force; stating membership; requiring development of plan; specifying items to be included in plan; providing for reimbursement of travel expenses; requiring certain information to be reported to public health authority; stating powers of public health authority for tracking disease; specifying how reported and tracked information is to be shared; authorizing declaration of health emergency; specifying contents of executive order; stating what may be done during public health emergency; authorizing National Guard to assist in enforcement of orders during public health emergency; specifying how declaration shall be terminated; specifying content of termination order; authorizing public health authority to exercise certain powers regarding facilities and materials during public health emergency; specifying procedures regarding disposal of infectious waste and human remains; stating authority regarding control of health care supplies; stating authority for destruction of property under certain circumstances; specifying authority of public health authority regarding control of diseases; authorizing licensure and appointment of health personnel under certain circumstances; specifying how information regarding public health emergency shall be disseminated; requiring public health authority to make information regarding mental health support available; authorizing promulgation of rules; authorizing transfer of funds up to certain amount; stating this act does not preempt other laws; specifying act controls in conflict of laws; and providing for codification.

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 25 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 the Catastrophic Health Emergency Powers 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 the Catastrophic Health Emergency Powers 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, intravenous (IV) 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 the Catastrophic Health Emergency Powers 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 to be codified in the Oklahoma Statutes, as Section 6105 of Title 63, unless there is created a duplication in numbering, 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 to be appointed by the State Board of Medical Licensure and Supervision;

13. A representative of the State Board of Osteopathic Examiners to be appointed by the State Board of Osteopathic Examiners;

14. A representative of the Governor to be appointed by the Governor;

15. A person appointed by the Governor representing a statewide organization representing hospitals;

16. A representative of the Oklahoma Nurses Association to be appointed by the Oklahoma Nurses Association; and

17. A representative of the Oklahoma Psychological Association to be appointed by the Oklahoma Psychological Association.

C. Appointees shall serve at the pleasure of the appointing authority.

D. No later than December 31, 2004, 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 method of evacuating populations and housing and feeding evacuated populations during a catastrophic health emergency;

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

7. 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;

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

9. The safe and effective control of persons treated during a catastrophic health emergency;

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

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

- a. sites where medical supplies, food, and other essentials can be distributed to the population,
- b. sites where public health and emergency workers can be housed and fed, and
- c. routes and means of transportation of people and materials;

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

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

E. 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.

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

G. 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.

H. 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, "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, for examination purposes, shall 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 the Catastrophic Health Emergency Powers 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 the Catastrophic Health Emergency Powers 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; and

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.

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 the Catastrophic Health Emergency Powers 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:

The public health authority, for the period the state of catastrophic health emergency exists, may exercise 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 treatment or examination 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; 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.

SECTION 20. 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 21. 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 22. 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 the Catastrophic Health Emergency Powers Act. The public health authority and other affected agencies shall have the power to enforce the provisions of the Catastrophic Health Emergency Powers 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 the Catastrophic Health Emergency Powers Act.

SECTION 23. 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 24. 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:

The Catastrophic Health Emergency Powers 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 the laws or rules are consistent, and do not otherwise restrict or interfere, with the operation or enforcement of the provisions of the Catastrophic Health Emergency Powers Act.

SECTION 25. 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:

A. The Catastrophic Health Emergency Powers Act does not restrict any person from complying with federal law or regulations. 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 the Catastrophic Health Emergency Powers 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 the Catastrophic Health Emergency Powers Act and other state or local laws or rules concerning public health powers, the provisions of the Catastrophic Health Emergency Powers Act apply.

C. Nothing in the Catastrophic Health Emergency Powers Act shall imply the predesignation of hospitals.

Passed the House of Representatives the 28th day of May, 2003.

Presiding Officer of the House of
Representatives

Passed the Senate the 29th day of May, 2003.

Presiding Officer of the Senate